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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	No. 08 CR 888
Government,)	
)	Chicago, Illinois
vs.)	
)	June 22, 2010
ROD BLAGOJEVICH,)	
ROBERT BLAGOJEVICH,)	
)	9:47 o'clock a.m.
Defendants.)	

VOLUME 12
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. ZAGEL
AND A JURY

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INDEX OF EXAMINATION

WITNESS PAGE

JOHN F. HARRIS

Direct Examination (Resumed) By Ms. Hamilton..... 2380

JOHN HARRIS

Direct Examination Resumed By Ms. Hamilton..... 2480

EXHIBITS

Government's Exhibit 10/6/08 Schedule..... 2405

Government's Exhibit Harris Talking Points..... 2415

1 (The following proceedings were had out of
2 the presence of the jury in open court:)

3 THE CLERK: Please remain seated.

4 We will resume with the case on trial.

5 MR. SCHAR: Good morning, Judge.

6 Reid Schar, Chris Niewoehner and Carrie
7 Hamilton on behalf of the United States.

8 MR. GOLDSTEIN: Your Honor, there was one
9 issue that we wanted to address with Your Honor. I
10 was here this morning when the government was
11 reinserting those transcripts and I noticed one of
12 the tabs, I don't know if there is more than one,
13 will be played while John Harris is a witness, one
14 of those tabs is a call that does not involve John
15 Harris at all. It's a call between Mr. Blagojevich
16 and another individual.

17 We are asking that that call not be published
18 during Mr. Harris' testimony and we would not be
19 able to cross-examine him on that issue, deprive our
20 right to cross-examine this witness as to that call.

21 THE COURT: I understand the theory, but I'd
22 like to see the transcript.

23 MR. GOLDSTEIN: I know it's tab 24.

24 Are you planning on using that?

25 MS. HAMILTON: It's not going to be played.

1 MR. GOLDSTEIN: Okay. Then I was mistaken.

2 MR. SCHAR: I think there will be some calls
3 played, Judge -- I mean, obviously we have calls
4 that nobody is going to testify that they're not
5 Defendant Rod Blagojevich or Robert Blagojevich are
6 on certain calls. There are other individuals that
7 are on the call that we may not call as witnesses.
8 We're certainly not going to ask Mr. Harris about
9 the content of the conversation if he wasn't part of
10 it, but for the flow of the evidence for the jury,
11 chronologically and for other reasons, it does make
12 sense to publish them at certain times as opposed to
13 waiting and to publish them with no one on the
14 stand.

15 THE COURT: Right. And I anticipated what
16 you were going to say, but we don't have a live
17 issue now. We'll leave that until we do have a live
18 issue.

19 MR. GOLDSTEIN: Our objection remains the
20 same, the playing of a call between two individuals
21 who are not witnesses on the stand.

22 THE COURT: As a general principle, that is a
23 good idea, but it's like the hearsay rule, riddled
24 with exceptions, so we'll see.

25 MS. HAMILTON: I want to ask your permission

1 for one other thing. There are some rather lengthy
2 calls that I'm going to ask your permission to
3 publish through Mr. Harris that he was a participant
4 and I'm going to ask him some questions about it.
5 Some of those calls I would like to publish a
6 portion, ask questions, publish more, and ask more
7 questions, I want to make sure that is acceptable to
8 you before I proceed to do that with the witness.

9 THE COURT: Do you care?

10 MR. GOLDSTEIN: We have no objection to that.

11 THE COURT: I don't care.

12 MS. HAMILTON: If I publish a particularly
13 long call and I don't break it up, would Your Honor
14 be okay with me sitting down for the call? Some of
15 the calls are 20, 30 minutes.

16 THE COURT: You can sit down.

17 MS. HAMILTON: Thank you, Your Honor.

18 THE COURT: Put the witness back on the
19 stand.

20 THE MARSHAL: All rise.

21 (The following proceedings were had in the
22 presence of the jury in open court:)

23 THE COURT: Please be seated.

24 The witness will resume the stand.

25 (Brief pause).

Harris - direct by Hamilton

2380

1 THE COURT: You may proceed.

2 MS. HAMILTON: Thank you, Your Honor.

3 JOHN F. HARRIS, GOVERNMENT WITNESS, PREVIOUSLY SWORN

4 DIRECT EXAMINATION (resumed)

5 BY MS. HAMILTON:

6 q Mr. Harris, when we broke yesterday afternoon I
7 was asking you some general questions about
8 Defendant Blagojevich and fundraising in 2008, do
9 you remember that?

10 A Yes, ma'am.

11 q I wanted to ask you a few follow-up questions.
12 what, if anything, did Defendant Blagojevich
13 tell you about his need to raise funds in relation
14 to paying personal legal fees?

15 A Sometime in late 2007 I was present at a
16 meeting -- or several meetings when the topic had
17 come up where Governor Blagojevich was going to be
18 receiving a bill from Winston & Strawn, the law firm
19 that had been representing him in the ongoing
20 federal investigation and it was going to be a
21 substantial bill of at least \$700,000 and they
22 wanted payment.

23 The Governor was very upset at the amount of
24 the bill. He had previously paid the firm already
25 \$1 million for legal services, I believe, and those

Harris - direct by Hamilton

2381

1 fees were paid for out of his campaign fund and this
2 bill was going to be 700,000 to perhaps a million
3 dollars and they wanted payment before at the end of
4 the year.

5 The Governor was very upset with the firm,
6 the amount of the bill, and wanted to fire them as
7 his lawyers and try to negotiate the bill down.

8 q And so what did that have to do with fundraising?

9 A well, the bill would've been paid, as I said, out
10 of the campaign fund which would've substantially
11 reduce the balance of the fund.

12 The beginning of each year and in the middle
13 of the year candidates for office or people who have
14 campaign funds have to disclose with the Secretary
15 of State's office the amount in their fund and who
16 made contributions during that 6-month period.

17 This payment would not only have
18 substantially reduced his balance for the early
19 January reporting, but it would also evidenced the
20 fact or disclosed the fact that his legal bills were
21 large and growing as a result of the federal
22 investigation despite his public comments that the
23 investigation was nothing to be concerned about or
24 very deep or large in scope and that the bills
25 would've contradicted that.

1 q So, again, based upon what Defendant Blagojevich
2 said, what was your understanding of what this meant
3 in terms of fundraising in 2008 in relation to these
4 bills in 2007?

: 48AM 5 A Well, he wanted, as I said, he wanted the bills
6 to be postponed through a negotiated process to be
7 submitted to him after January 1st so that they
8 wouldn't show up in the January 1st disclosures; in
9 other words, the drawdown in the campaign account
: 48AM 10 would not have been known until sometime on or about
11 July 1st, the next reporting required period.

12 So he wanted to use the first 6 months of
13 2008 to replenish his campaign fund in order to
14 offset the million dollars in legal fees and then
: 49AM 15 some. So it was important to him to not only delay
16 the disclosure, but also to ramp up fundraising
17 activity for the benefit of the campaign fund in
18 order to demonstrate that even with the legal bills
19 he remained politically very strong and able to
: 49AM 20 raise funds.

21 q Did you have any understanding as to what that
22 would mean in terms of future fundraising?

23 A Well, the bills would show that the Governor's
24 office or the Governor himself was spending a lot of
: 49AM 25 time and effort working with his lawyers or his

Harris - direct by Hamilton

2383

1 lawyers were spending a lot of time on his behalf
2 managing the legal investigation or the legal case
3 and that that would send a message, potentially, to
4 politicians and donors that the Governor was in more
5 trouble than he led on or that many believed.

:50AM

6 Certainly the bill would speak volumes to that or
7 the size of the bill.

8 Q And what effect, if any, did Defendant
9 Blagojevich believe this might have on his political
10 power?

:50AM

11 A Well, the smaller your campaign fund, the smaller
12 your political power. The people that observe these
13 things, the media and politicians and other
14 legislators and potential allies or existing allies,
15 are constantly looking for signs of strength or
16 weakness in order to make their decisions about
17 whether to be supportive or not of any petition
18 initiative or an agenda. Whether they want to align
19 themselves with you or not depends on how strong you
20 are perceived.

:50AM

21 Q What you described, Mr. Harris, is that something
22 that you yourself personally experienced at times
23 when you represented the office of the Governor in
24 Springfield?

:50AM

25 A Yes, it was -- it was becoming apparent as early

:50AM

1 as late '07 or the middle of '07 that our influence
2 in Springfield, the administration's influence,
3 among the legislature was diminishing, the number of
4 allies or people willing to stand with us is growing
5 smaller and, in part, because of not only negative
6 press, the federal investigation, but also the
7 efforts to raise funds.

8 Q Mr. Harris, I now want to focus you on something
9 called the ethics bill and I believe this is also
10 referred to sometimes as House Bill 1, do you know
11 what I'm referring to?

12 A Yes.

13 Q Generally speaking, what was the ethics bill?

14 A That ethics bill was a piece of legislation that
15 had been started in mid to late 2007, an initiative
16 primarily of the Speaker Michael Madigan to impose
17 limits on the Governor's ability to raise funds from
18 people doing business with the state.

19 Anybody who had contracts for or was pursuing
20 contracts for an amount, I believe, over \$25,000
21 would be prohibited from making campaign
22 contributions to the Governor.

23 Q Approximately when did it emerge as possible
24 legislation?

25 A It emerged in '07, failed to pass in -- or it

1 wasn't taken up, I can't remember which, but it came
2 back in the spring of '08, during the spring session
3 of the general assembly.

4 Q Did you have any conversations with Defendant
5 Blagojevich about what effect the ethics bill would
6 have on his fundraising efforts?

7 A I was in the room when conversations were
8 occurring between himself and members of his
9 campaign staff and other legislative allies whose
10 assistance he was going to seek in defeating the
11 bill or amending the bill, and it would have a
12 significant effect on his ability to raise funds
13 because what I understood from him was that many of
14 the funds that he was able to solicit for his
15 campaign fund did, in fact, come from people doing
16 business with the state or state contracts.

17 Q Ultimately, did the ethics bill become law?

18 A Yes, it did.

19 Q Can you walk through, in general terms for the
20 jury, how that happened.

21 A Late in the spring session, both the House and
22 Senate passed the bill despite our efforts to get
23 some amendments, changes to the bill that would make
24 it apply more broadly.

25 The House passed the bill and the Senate

1 passed the bill, I believe, in the early summer or
2 mid-summer and the bill was sent to the Governor for
3 his action.

4 q And what happened, again generally, when the bill
5 was sent to the Governor for his action?

6 A The Governor mandatorily vetoed the bill after we
7 had discussions with his then Senate President Emil
8 Jones about our dissatisfaction with the bill and
9 that we wanted to amend the bill and we used the
10 process called a mandatory veto which rewrites the
11 bill and sends it back to the General Assembly for
12 consideration and a mandatory veto.

13 q what happened after the bill was mandatorily
14 vetoed and sent back?

15 A The House immediately or soon after we sent back
16 the bill, overrode the Governor's veto; in other
17 words, they rejected his changes, his proposed
18 changes, with more than a 3/5's vote overrode his
19 veto, and then the bill went to the Senate for its
20 consideration of the mandatory veto.

21 q what happened once the bill got to the Senate?

22 A well, pursuant to an agreement we had with Emil
23 Jones, the bill was not called initially.

24 q what do you mean?

25 A In other words, Emil did not take the bill up for

1 consideration. He was just holding the bill and the
2 bill remained locked up in the Senate for several
3 weeks.

4 q When you say "Emil," who are you referring to?

5 A Senate President Emil Jones.

6 q At some point did that change?

7 A Yes, throughout -- throughout the summer we had
8 several legislative battles. We were working very
9 closely with Senate President Jones and he was
10 taking a lot of heat and underwent a lot of pressure
11 from not only members of the Illinois Senate,
12 members of his own caucus, meaning other Democratic
13 senators, news media, editorial pages were all
14 urging Senate President Jones to call the bill for
15 an override vote; in other words, reject the
16 Governor's changes and allow the ethics bill to
17 become law as written originally.

18 And the Senate President was undergoing a lot
19 of pressure, so we had discussions with the
20 Governor, myself and other members of the senior
21 staff, legislative staff, legal division, about the
22 likelihood of Emil Jones holding the bill and not
23 calling it for an override.

24 q And in the course of this discussion, did
25 Defendant Blagojevich say anything about what he

1 thought with respect to Senate President Jones not
2 calling the bill?

3 A I had expressed my concern and others as well
4 that I didn't think Emil would hold, meaning he
5 wouldn't be able to withstand the pressure not to
6 call the bill.

7 And the Governor told myself and the others
8 present that he believed Emil would hold because he
9 knew something we didn't.

10 q Did he tell you what that was?

11 A Yes, he told us that Emil Jones wanted the Senate
12 seat, wanted to be appointed to the vacant Senate
13 seat if and when then candidate Obama would elected
14 President, that he would want the Senate seat for
15 himself and he had made that wish known to Governor
16 Blagojevich and that Governor Blagojevich believed
17 that knowing Emil wanting that seat, Emil wouldn't
18 go back on the deal or the pledge to hold the ethics
19 bill from an override vote.

20 q At some point did Senate President Jones, in
21 fact, call the bill?

22 A Yes, sometime in early September 2008 President
23 Jones called me and told me that he had received a
24 call from, he called him his president, referring to
25 Barack Obama, my President called and asked me to

1 call the bill for an override and that he planned on
2 doing that.

3 q How did you respond to that?

4 A I told him doing so would betray his agreement
5 with the Governor and that it was going to cause a
6 lot of problems and had we known he was going to do
7 that we would've signed the original bill into law
8 and not undergone all this bad publicity and all
9 this bad press and ill-will for vetoing the bill, or
10 mandatorily vetoing the bill, and that he should
11 tell the Governor himself that that's what he intend
12 to do.

13 q When you say that you told him it would go back
14 on his agreement with the Governor, what agreement
15 were you referring to?

16 A The agreement on the mandatory veto. We worked
17 and closely coordinated our changes to the bill. In
18 other words, Emil passed the original bill as is
19 because his members wanted it, he knew that we would
20 either veto it or mandatorily veto it so he would
21 have a second bite at the apple to help the
22 Governor.

23 The language that we changed in the bill we
24 had presented it to Emil Jones, he made some
25 suggested changes. So we ultimately worked out what

Harris - direct by Hamilton

2390

1 the amendment would look like, what the changes
2 would look like. And he agreed that he would call
3 the mandatory veto for a vote, in other words,
4 rather than call for an override of the Governor's
5 veto which would negate the changes, he agreed to
6 call the changes for a vote and with a simple
7 majority he could pass those changes out of the
8 Senate. So the agreement was our understanding with
9 him as to what the plan would be regarding the
10 ethics bill.

11 q At some point after you learned from Senate
12 President Jones that Barack Obama had called him and
13 because of that he was going in fact call the ethics
14 bill, did you contact Defendant Blagojevich and let
15 him know this?

16 A Yes, soon after I received the call from
17 President Jones.

18 q What happened after Senate President Jones called
19 the bill?

20 A Well, we had -- he did call the Governor and
21 agreed with the Governor that he would call -- he
22 told the Governor he was planning to call the bill
23 for an override. The Governor asked him and Emil
24 agreed to call the amendments first, in other words
25 pass both bills, the amendment and the override.

Harris - direct by Hamilton

2391

1 The Governor's hope was that if the amendments
2 passed, the senators would back off on their desire
3 to call the vote for an override.

4 In any case, Emil called the override vote
5 first and the senators overwhelming overrode the
6 Governor's mandatory veto and the bill would become
7 law on its effective date because the House had
8 previously overridden the veto and now the Senate
9 had overridden the veto.

10 q When was the bill to go into effect?

11 A I believe December 31st, 2008.

12 q Mr. Harris, as Chief of Staff did you deal with
13 something known as the Capital Bill?

14 A Yes.

15 q Generally, what was the Capital Bill?

16 A The Capital Bill was legislation or several
17 pieces of legislation that would have authorized a
18 state wide multibillion dollar construction program
19 of schools, hospitals, roads, bridges, other
20 infrastructure projects around the state.

21 q Did the Capital Bill ever pass the legislature?

22 A No, never both Houses. We were successful in
23 getting a package related to the Capital Bill passed
24 out of the Senate twice, once in 2007 and once again
25 in 2008, but both times it was not called or

1 otherwise defeated in the House.

2 q So it failed to pass both in 2007 and 2008?

3 A Yes.

4 q After the Capital Bill failed to pass in 2008,
5 was the Office of the Governor looking at options
6 involving the tollway?

7 A Yes, the tollway itself, as well as myself and
8 other members of the senior staff, had been working
9 for sometime on a plan for an extended construction
10 program involving the Tollway Authority.

11 The tollway was winding down on a 5-year
12 multibillion dollar capital improvement program or
13 road construction program and we were working on the
14 next generation or the next phase of a tollway
15 program.

16 q So when you say -- we're talking when in 2008
17 that you are talking about the tollway winding down
18 its previous program?

19 A Well, in 2008, I believe, would've been the last
20 year kind of robust construction activity, but it
21 had been steadily declining because it was reaching
22 the end of its schedule and funding and it would
23 need to come up with a new program, a new schedule,
24 and new funding in 2008 in order for us to continue
25 construction in 2009 and beyond.

1 q Okay. So in 2008 there had already been a
2 tollway program that was in place, is that right?

3 A We were at the tail end of it.

4 q Had state contracts been issued in connection
5 with that tollway plan?

6 A Yes, in some cases years before and in some cases
7 that year.

8 q Generally speaking, what industries had benefited
9 from the contracts under the earlier tollway plan?

10 A Well, they're mostly road projects and the
11 industries that would benefit would be the road
12 building industry, asphalt, concrete, construction
13 companies, contractors, as well as labor, operating
14 engineers, laborers, other skilled labor force that
15 would need to bring resources to bear.

16 q Based on --

17 A I'm sorry, environmental -- I'm sorry,
18 environmental, engineering and architectural firms
19 as well.

20 q Based on what you knew from Defendant
21 Blagojevich, were those industries you just listed
22 involved in fundraising for him?

23 A Oh, yes, the road builder industry was very
24 active in campaign contributions and has been for --
25 for as long as I know, Democratic or Republican.

1 The road builders just want to keep building.

2 q So as the former tollway program was winding down
3 in 2008, what was your involvement, if any, in the
4 ideas of the next generation, I think you said, for
5 the tollway program?

6 A Well, the tollway mixing or management of the
7 tollway had come in and briefed myself and John
8 Filan about their plans and their desire to move
9 ahead on the next phase and they wanted to present
10 those ideas to the Governor to get his concurrence
11 before the board took up the matter for approval.

12 q What was being proposed?

13 A Another multibillion dollar multiyear capital
14 improvement and expansion program for the tollway,
15 things that were not included in the first phase or
16 could not be included because necessary projects
17 needed to be built first in order to move on to the
18 next phase.

19 q At some point in the next phase of the tollway
20 process, were three different tollway plans
21 presented to Defendant Blagojevich?

22 A Yes, the Governor eventually agreed to a meeting
23 and a presentation about the Tollway Authority
24 personnel and leaders on proposals for the next
25 phase.

1 There was an initial presentation to the
2 Governor and then the Governor asked for the
3 presentation to be repackaged into, for lack of a
4 better word, kind of a small, medium, or large
5 package to be presented to him again at a later
6 date.

7 q Approximately -- the meeting you just described,
8 approximately when did that occur in 2008?

9 A About late summer, I believe.

10 q And at some point, as you say, was the program
11 repackaged into a small, medium, and large proposal?

12 A Yes.

13 q And were those proposals presented to Defendant
14 Blagojevich?

15 A Yes.

16 q Approximately when was that?

17 A I would say early fall of 2008.

18 q And, generally speaking, what were the small,
19 medium and large packages that were presented to
20 Defendant Blagojevich at that time?

21 A Well, a scope program, a scope that would build
22 on each other. The medium would build on the small,
23 and the large would build on the medium. It
24 involved interchange improvements, highway
25 interchange improvements or new interchanges being

1 installed, new roads, extensions of existing tollway
2 routes, environmental projects like added lanes for
3 vans traffic or high occupancy vehicle traffic,
4 sometimes the industry refers to it as green lanes
5 or hot lanes for different users, people that have
6 more than one passenger or people that are willing
7 to pay more to travel faster, as well as major
8 expansion of the system to reach new areas within
9 northeastern Illinois.

10 q Did the three packages have different budgets?

11 A Yes, the first package or the smallest package
12 was about 1.8 billion dollars, the second package
13 was somewhere in the neighborhoods of 4 and a half
14 to 5 billion dollars, and the third package was
15 somewhere between 6 and 7 billion dollars.

16 q At some point after those three packages were
17 presented to Defendant Blagojevich, did he make a
18 decision regarding which one to proceed with?

19 A Yes, he indicated that he wanted to proceed with
20 the 1.8 billion-dollar package.

21 q Did Defendant Blagojevich explain to you why it
22 was he had chosen the package for 1.8 billion-dollar
23 plan?

24 A Yes.

25 q What did he tell you?

1 A well, he had several reasons, one was, he didn't
2 want to fully satisfy the appetite of the road
3 builders in terms of their desire for the largest
4 package or largest program possible.

:10AM

5 He wanted to continue to solicit fundraising
6 contributions from them, he wanted to, in his words,
7 wet their appetite and then see how they do on
8 fundraising and then if he was satisfied he would
9 add more to the program or expand the program beyond
10 the initial package.

:10AM

11 q when he explained that to you, that he wanted to
12 wet their appetites and see how they did on
13 fundraising, what did you understand him to be
14 saying?

:11AM

15 A That he was going to be asking them to support
16 him with more fundraising contributions, that he was
17 prepared to authorize the 1.8 billion-dollar
18 program, and perhaps would authorize more at a later
19 date.

:11AM

20 q If what?

21 A If they demonstrated their support to him.

22 q And when you say demonstrated their support to
23 him, what did you understand he meant?

24 A Financial support.

:11AM

25 q Campaign contributions?

1 A Yes.

2 q All right --

3 A There was also two other reasons he chose the
4 smaller program.

:11AM

5 q What were the two other reasons that he gave you?

:12AM

6 A One was he wanted to act quickly and some of the
7 larger programs required legislative approval
8 because it would expand the tollway's jurisdiction
9 into certain areas they currently weren't authorized
10 to move to on their own. And the \$1.8 billion was
11 something the tollway board could do on its own, and
12 most of the middle-size program the tollway board
13 could do on its own, but the very largest program
14 was something that would have required additional
15 authorization from the General Assembly. And he
16 also wanted them, he told me, to continue remain
17 engaged in a Capital Bill fight or his efforts to
18 get a Capital Bill passed.

:12AM

19 q And what did you take him to mean regarding that
20 in relation to the Capital Bill?

:12AM

21 A Well, he thought that if they were totally
22 satisfied, that they might just kind of stay out of
23 the fight in Springfield because it was over.

:12AM

24 q Did you have any understanding that the timing of
25 the decision on the 1.8 billion dollar tollway plan

1 was related to the passage of the ethics bill?

2 A There was some relationship.

3 Q And what was the relationship?

4 A Well, once the Governor made a decision on the
5 size program he wanted to move ahead with, he asked
6 myself and John Mitola, the then chairman of the
7 tollway board, how quickly we could get contracts
8 out on the street; in other words, award work for
9 the program. And we told him that wouldn't be until
10 sometime in the spring or late winter, in other
11 words early 2009.

12 He wasn't satisfied with that and asked us
13 whether or not we could get contracts awarded before
14 the end of the year when the ethics legislation
15 would have become law and barred tollway contractors
16 from making contributions to him.

17 Q And what was your reaction to that?

18 A I told him it would be impossible to award
19 contracts given the late date that we decided on the
20 size and the scope of the program, that the best we
21 could do is advertise contracts for environmental
22 services and engineering services, in other words
23 the soft costs related to a construction program,
24 the costs for work that needs to be done before you
25 can actually put a shovel in the ground. That the

1 best we could, and even then it would be a tough
2 schedule to meet, would be to put out the
3 advertisements for that kind of work probably in
4 December of 2008.

:14AM

5 q And what, if any, reaction did Defendant
6 Blagojevich have to that?

:14AM

7 A He wanted us to do whatever we could to make sure
8 and he wanted the tollway to do whatever they could
9 to make sure that they had those advertisements on
10 the street in December or as early as possible.

11 q Mr. Harris, I want to direct your attention to
12 November 4th, 2008.

13 what happened on that Tuesday?

14 A President Obama was elected President.

:15AM

15 q What was Mr. Obama's position in politics prior
16 to winning the presidential election on the
17 November the 4th, 2008?

18 A U.S. Senator from Illinois.

:15AM

19 q Once he won the general election, what did that
20 mean with respect to his position as a U.S. Senator
21 from Illinois?

22 A That there would be a vacancy created.

23 q And, by law, once that vacancy was created, what
24 happened to the Senate seat?

:15AM

25 A Under the Illinois constitution and Illinois

1 statutes, the Governor of the State of Illinois
2 would appoint someone to fill that vacancy for the
3 balance of the term, in this case 2 years remaining
4 on then Senator Obama 6-year term in office.

:15AM

5 q So whose decision was it as to who would be the
6 next senator from Illinois after Barack Obama won
7 the election?

8 A Solely the Governor's.

:16AM

9 q Were you part of discussions regarding how
10 Defendant Blagojevich would fill that Senate seat?

11 A Yes.

12 q When did discussions begin about that in relation
13 to the November 4th, 2008, election?

:16AM

14 A They began during the primary season almost soon
15 after then U.S. Senator Obama announced his
16 candidacy for office and would occur intermittently
17 throughout the primary election season.

:16AM

18 q When you are referring to the primary election
19 season, generally speaking, what time of year was
20 that?

21 A From about Thanksgiving 2007 through the summer
22 of 2008.

23 q At some point did the discussions become more
24 regular and more serious?

:17AM

25 A Yes, the first conversation I recall with any

1 degree of specificity was sometime in January, I
2 believe, of 2008, when then candidate Obama had won
3 the Iowa caucuses and a political consultant of the
4 Governor's told the Governor on a phone call we were
5 on that Obama would be the next President.

6 The Governor didn't believe that was possible
7 at the time and there was some kind of casual
8 discussion about it from time to time on conference
9 calls with his political consultants. It didn't
10 become more frequent until late summer or early fall
11 of 2008.

12 q In the summer of 2008, who was Defendant
13 Blagojevich talking about appointing to the Senate
14 seat should Barack Obama win the presidency?

15 A The only serious discussion there was was the
16 Governor appointing himself or then Senate President
17 Emil Jones, his legislative ally in Springfield.

18 q And was that the conversation you previously
19 testified about this morning?

20 A Well, in earlier conversations with Senate
21 President Jones, the Governor, when we were talking
22 about pending legislation in Springfield, whether it
23 was the budget or a recall measure that was being
24 hotly debated or the ethics bill, the Governor would
25 often remark to then Senate President Jones, "Emil,

Harris - direct by Hamilton

2403

1 if you want it it's yours," again, if in fact Senate
2 Obama would win, and Emil would jokingly decline,
3 "thanks but no thanks," that was that conversation.

4 Q Mr. Harris, just to be clear, the conversations
5 that you just discussed where Defendant Blagojevich
6 would say, "Emil, if you want it, it's yours" and
7 Senate President Jones would respond as you've
8 testified, were those discussions that happened
9 before the conversation you previously told us about
10 regarding the ethics bill?

11 A Yes, this was earlier on.

12 Q Okay. So you had heard those discussions and
13 then there was the discussion about when Defendant
14 Blagojevich told you that Senate President Jones
15 was, in fact, interested in and had told him he
16 wanted the Senate seat, is that correct?

17 A Yes, that's why we were surprised when we heard
18 the Governor say there is something you don't know
19 and that is President Jones does want the Senate
20 seat, because we were all under the impression
21 before that that Senate President Jones had no
22 interest in it and that there was no serious
23 discussion between the two.

24 Q After what occurred with Senate President Jones'
25 actually calling the ethics bill despite his

1 agreement to Defendant Blagojevich to not do that,
2 did Defendant Blagojevich say anything about how
3 that might affect his decision regarding the Senate
4 seat?

:20AM

5 A Yes.

6 q what did he tell you?

7 A There's no way he's getting the seat now, or
8 words to that effect.

:20AM

9 q And what was your understanding as to what he
10 meant by that?

11 A That he was very disappointed in Senate President
12 Jones and that he wouldn't be considering him as an
13 appointment to the vacant Senate seat if it
14 occurred.

:21AM

15 q So after the ethics bill issue with President
16 Jones, based on what you knew, did Defendant
17 Blagojevich's focus change regarding the Senate
18 seat?

19 A Yes.

:21AM

20 q In what way?

21 A well, he was beginning to think about who he
22 might appoint, what possibilities were out there,
23 other than appointing himself which he would
24 continue to discuss, but he was also thinking about
25 alternatives.

:21AM

1 q Did you have any specific conversation with
2 Defendant Blagojevich that was significant to you in
3 understanding that his focus had changed regarding
4 how he was viewing the Senate seat?

5 A Well, there was no apparent candidate. And while
6 there was some discussions with the consultants on
7 the phone about possible candidates and possible
8 opportunities, the Governor I recall on one and then
9 followed by a second conversation in his offices in
10 Chicago at the Thompson Center, mentioned to me and
11 to -- there was a specific conversation first, I
12 believe, on a ride we shared where I accompanied him
13 to Northwestern University.

14 q Do you recall when that ride to Northwestern
15 University was?

16 A It was on or about October 6th, 2008.

17 MS. HAMILTON: Judge, at this time I ask
18 permission to move in evidence Government Exhibit
19 10/6/08 schedule, there's a 90211 certification that
20 goes with this document.

21 THE COURT: Without objection admitted.
22 (Government's Exhibit 10/6/08 schedule was
23 received in evidence.)

24 MS. HAMILTON: May I approach and publish?

25 THE COURT: You may.

1 (Exhibit published to the jury).

2

3 BY MS. HAMILTON:

4 Q Mr. Harris, I want to direct your attention,
5 first of all, what is this generally?

6 A This is the Governor's schedule for October 6th.

7 Q 2008?

8 A Yes.

9 Q I want to direct your attention to an entry at
10 12:30 p.m. on that schedule, do you see that?

11 A Yes.

12 Q What does that reflect?

13 A Our scheduled meeting with the president of
14 Northwestern University and some other officials of
15 Northwestern University.

16 Q And do you see at 12:15 it says, "depart
17 Ravenswood in route," is that the car ride you were
18 referring to?

19 A Yes. On that day after going downtown early in
20 the morning, I left to meet the Governor at the
21 Ravenswood office which was his campaign office,
22 would join him, brief him, and accompany him to the
23 scheduled meeting at Northwestern.

24 Q Who was in the car with you and Defendant
25 Blagojevich?

1 A Myself, the Governor, and two members of his
2 protection detail, one driver and one bodyguard.

3 Q What, if anything, was said during that car ride
4 with respect to Barack Obama's Senate seat?

5 A At one point in the conversation we were
6 discussing other things and the Governor turned to
7 me and said words to the effect of, "so what do you
8 think I can get for this Senate seat," and I turned
9 to him and said, "what do you mean, for you?" And he
10 said "yes." And I reflected on it and said, well,
11 you can get a new ally or reward an ally, that's
12 what you can get.

13 Q What did you understand him to be asking you?

14 A What possibilities there were for himself in
15 making the appointment, that's what I understood him
16 to mean, and then I said well, you can make an ally
17 or reward an ally.

18 Q And what did you mean by that?

19 A Meaning it was an opportunity to help a friend,
20 somebody that's been helpful to him politically or
21 make new friends or build an ally, get an ally on
22 his side to help him shore up his political stock,
23 and by appointing someone to a Senate seat, it would
24 be a powerful position and make a powerful ally.

25 Q Did Defendant Blagojevich respond at all to your

1 response that he could reward and ally or make an
2 ally?

3 A Not really. He simply said okay, we'll talk
4 about it later, and kinda looked away and the rest
5 of ride was kind of quiet.

6 q what was it about that conversation that was
7 significant to you at the time?

8 A well, it was the first time that we talked about
9 it since he had ejected Emil Jones as a possible
10 candidate after the betrayal. And I knew he still
11 had himself in mind for it or felt he did, but I
12 think he was for the first time exploring
13 opportunities to get something for himself for life
14 after Governor if he wasn't going to run for
15 reelection and/or he wasn't going to appoint himself
16 to the Senate seat.

17 q After that conversation on October the 6th, did
18 you have any further conversations with Defendant
19 Blagojevich in October that were significant to you
20 regarding the Senate seat?

21 A Yes.

22 q Approximately when?

23 A Mid October, couldn't be sure of the date.

24 q Where?

25 A In his offices at the Thompson Center.

1 q And how many conversations did you have?

2 A I believe there were two.

3 q Let's focus on the first one.

4 who was present for the first conversation?

5 A I should say I remembered two. I mean, there was
6 probably others, but I remember two specifically.

7 q All right. Let's focus on the two you remember.

8 Do you remember them separately or
9 collectively?

10 A By "collectively" you mean the details of each?

11 q Exactly. Do you have a recollection of the
12 details of the first one separate and apart from the
13 details of the second one?

14 A Not really. In some respects, but not entirely.

15 q Okay. As best you can recall, let's focus on the
16 first conversation. Who was there?

17 A well, it was myself and Bill Quinlan and it was
18 following a meeting that we had in his office with
19 others present that had broken up and we remained
20 behind.

21 q So it was yourself, Bill Quinlan, and Defendant
22 Blagojevich?

23 A Yes.

24 q And what do you recall being said at that first
25 meeting?

1 A well, the Governor was, you know, speaking, I'm
2 not sure how serious he was, but just generally
3 about how much he can get for the Senate seat from
4 people that were interested in it, like Blair Hall,
5 or J.B. Pritzker, these are two local businessmen,
6 very wealthy men, supporters of the governors, how
7 much they might be willing to help the Governor in
8 campaign funds or setting up an endowment or
9 endowing a private foundation.

10 q what did you understand him to be saying?

11 A well, he was talking about money for his campaign
12 fund or some not-for-profit or other issue advocacy
13 group that the Governor would be aligned with in
14 exchange for the Senate seat.

15 q what, if anything, was said in response to
16 Defendant Blagojevich's suggestion regarding money
17 for his campaign fund or to endow in relation for a
18 had Senate seat?

19 A well, both Quinlan and I told him that you can't
20 get money for the Senate seat, you shouldn't even
21 consider that as an option, and then we kind of
22 moved on.

23 q You said that there was a second conversation?

24 A Yes.

25 q Approximately when did that second conversation

1 happen in relation to the first conversation you
2 just described?

3 A It happened some days later, and again similar
4 circumstances where the Governor was talking about
5 money for the campaign fund or some 501(c)(3) or
6 (c)(4) which is an issue advocacy group or
7 not-for-profit group, that he could get money put
8 into those funds as part of the Senate seat
9 selection process.

10 q And what was the response at this point?

11 A At this time Bill was more vocal. We both said
12 to him, you can't talk about that. And Bill was
13 more direct in his admonishment, "Governor, you
14 can't even joke about that, don't even talk like
15 that, don't even think like that," or words to that
16 effect, meaning whether you're serious or not, don't
17 say things like that.

18 A Was anything further said at that second
19 conversation about that topic?

20 A No, other than admonishing him not to say that to
21 anyone else.

22 q Prior to the November 4th election, what, if
23 anything, were you working on regarding the
24 potential filling of the Senate seat by Defendant
25 Blagojevich?

1 A The Governor asked me to come up with a process
2 or propose a process, a process he would use in the
3 event then Senator Obama won the election, a process
4 that he should follow with respect to filling the
5 vacancy.

6 Q So what did you do?

7 A I consulted with other members of the senior
8 staff, again thinking about what kind of formal
9 process we might put into place, and had some
10 discussions with the Governor about it, some
11 discussions with his political consultants, some
12 discussions with some senior staff, and began to
13 work on drafting some documents that would
14 facilitate the process.

15 Q What was the formal process that you proposed to
16 Defendant Blagojevich?

17 A Well, one was to put up on our state website,
18 State of Illinois website, Office of the Governor,
19 kind of an open letter, posting an open letter to
20 interested persons to submit their resumes, their
21 credentials, a cover letter expressing an interest
22 in being considered an appointment, and setting
23 forth in the letter the requirements under the law
24 that one would have to meet to be considered
25 eligible to be appointed.

1 The establishment of a Senate selection
2 committee or team out of his office that would
3 review any applications that came in and kind of
4 separate the weak from the chaff and take a smaller
5 group to a second round, if you will, of
6 questionnaires that they would need to fill out.

7 That team would include people from the
8 Governor's Office and/or people from organized labor
9 or people representing the business industry,
10 perhaps another elected official. The Governor told
11 me he didn't want outsiders on the team, so I
12 narrowed the team down to just people in the
13 administration.

14 q Were there people who you suggested to be on the
15 committee who Defendant Blagojevich said he did not
16 want?

17 A No, other than the people not in the
18 administration, people not working for the Governor.

19 q The website idea that you said you had, was that
20 something that happened?

21 A No.

22 q Was there -- I don't know if I cut you off, was
23 there anything more to the process that you had
24 proposed beyond what you've already explained?

25 A Well, we would establish search criteria, in

1 other words as part of the process we would tell
2 people, generally, what the Governor was looking for
3 in a suitable candidate and that will be part of it.

4 q At some point did you provide this criteria to
5 Defendant Blagojevich?

6 A Yes.

7 MS. HAMILTON: Your Honor, may I approach?

8 THE COURT: You may.

9 BY MS. HAMILTON:

10 q I'm going to show you Government Exhibit Harris
11 Talking Points.

12 Do you recognize that document?

13 A Yes.

14 q Generally speaking, what is this?

15 A This was a memo I drafted for the Governor that
16 would outline, generally, some talking points and
17 the process that we would propose to be followed in
18 identifying qualified candidates for a selection to
19 the vacant Senate seat.

20 q When you say talking points, what do you mean?

21 A Well, I drafted this for the Governor and faxed
22 it to his home where he was at and also provided
23 copies to the Governor's press secretary, the deputy
24 Governor for policy and legislative affairs and
25 communication so they could convert this into more

Harris - direct by Hamilton

2415

1 public speaking points and add to it or take from it
2 whatever they would in the event the Governor was
3 going to make public statements about the process he
4 was going to follow.

:37AM

5 q So this document you said you actually faxed it
6 to Defendant Blagojevich?

7 A Yes; I don't remember if it was the Friday before
8 the election on November 4th or the Monday before
9 the election on November 4th.

:37AM

10 q Is this document, Government Exhibit Harris
11 Talking Points, in the same or substantially the
12 same condition as when you drafted it?

13 A Yes.

:37AM

14 MS. HAMILTON: Your Honor, I move for the
15 admission of Government Exhibit Harris Talking
16 Points.

17 THE COURT: Without objection, admitted.
18 (Government's Exhibit Harris Talking Points
19 was received in evidence.)

:37AM

20 MS. HAMILTON: I ask to publish, please.

21 THE COURT: You may.

22 (Exhibit published to the jury.)

23 BY MS. HAMILTON:

:37AM

24 q I'm going to focus first on the top four
25 paragraphs, hopefully we'll be able to see those, if

1 not we can break them down further.

2 And, again, just to be clear, you drafted
3 this document?

4 A Yes.

5 q And you said you drafted the document to be
6 talking points and then also to start to shape an
7 internal process, is that right?

8 A Yes.

9 q And, again, when you're talking about talking
10 points, those were things that would be said
11 publicly about the process?

12 A Yes.

13 q So can you read for us, please, what you drafted
14 in terms of the talking points for the process for
15 filling the Senate seat.

16 A You want me to read the four paragraphs?

17 q Yes; please.

18 A (Reading:)

19 "... as President-Elect Obama prepares to
20 vacate his Senate seat, I will embark on
21 fulfilling my duties under the United
22 States Constitution and Illinois law to
23 appoint his replacement.

24 I will follow a thoughtful and
25 deliberate process. It will be orderly

1 and timely. It is important to have
2 someone in place looking out for interests
3 of the people of Illinois as soon as
4 possible.

5 I will meet privately with a select
6 number of qualified candidates. I will
7 not turn this into a public spectacle.

8 To assist me in identifying suitable
9 candidates, I have formed a Senate search
10 team made up of key members of my
11 administration who have devoted themselves
12 to public service and understand what I am
13 looking for."

14 q And, Mr. Harris, the Senate search team, is that
15 what you testified to regarding the team or
16 committee you had proposed to put together?

17 A Yes.

18 q Was any sort of formal Senate search team ever
19 put together?

20 A I never convened the team and we never put it
21 together.

22 q Why not?

23 A The Governor chose a different path.

24 q All right. I want to focus on the bottom portion
25 of the document now.

1 And, again, this is your drafting?

2 A Yes.

3 q And what did you draft in this portion of the
4 document?

5 A Some criteria that the Governor would be
6 applying.

7 q All right. And can you please read what the
8 criteria was that you proposed to be part of the
9 process.

10 A Yes:

11 "... someone who supports the President
12 elects agenda for the people ..."
13 which would be referring to President-Elect
14 Obama:

15 "... someone who can effectively represent
16 the interest of the State of Illinois and
17 the United States Congress.

18 Somebody who would work with my
19 administration ..."

20 meaning Governor Blagojevich's
21 administration: "... to achieve our goals
22 of expanding and ensuring access to
23 affordable health care, rebuilding
24 Illinois infrastructure, improving the
25 economic security and livelihoods of

1 Illinois workers and carrying for our most
2 vulnerable."

3 and finally:

4 "... in short, care about the average
5 Illinoisan who is too burdened by taxes
6 and economic hardship."

7 q Now, Mr. Harris, you said you faxed this document
8 to Defendant Blagojevich?

9 A Yes.

10 q And based upon what you observed, did Defendant
11 Blagojevich use this document at some point?

12 A Yes. I mean, many of the points were rolled into
13 his talking points at a scheduled press conference.

14 q Aside from the talking points at the press
15 conference, based on what you observed, was this
16 document used by Defendant Blagojevich in his
17 personal internal process to fill the Senate seat?

18 A No.

19 q In the few days prior to the November 4th
20 election, did you receive any significant calls
21 regarding the Senate seat?

22 A Yes.

23 q When?

24 A Sunday which would've been November 2nd before
25 the election.

Harris - direct by Hamilton

2420

1 q where were you?

2 A I was shopping for shoes with my sons in a
3 Payless by my House.

4 q who called you?

5 A Congressman Rahm Emanuel.

6 q And at that time who was Congressman Rahm Emanuel
7 in politics?

8 A 5th District Congressional District here in
9 Chicago, member of U.S. Congress and former chair of
10 the House Democratic Congressional Reelection
11 Committee.

12 q How did you know Congressman Emanuel at that
13 point?

14 A He had won the election to the Governor's
15 previous congressional seat in Chicago and I knew
16 Rahm from dealings with him in the city and prior
17 dealings with him in my capacity as Chief of Staff
18 in the Governor's Office.

19 q Was it strange for you to receive a phone call
20 from him?

21 A No.

22 q At the time of the call on November the 2nd, what
23 was your understanding of what Congressman Emanuel's
24 relationship was, if any, to Barack Obama?

25 A I believe that he was close to Senator Obama, was

Harris - direct by Hamilton

2421

1 going to participate in his transition or be part of
2 his transition team from Senator to President in the
3 event that he would win the general election on the
4 coming Tuesday.

: 43AM

5 q What did Congressman Emanuel say during this
6 conversation on November the 2nd?

: 43AM

7 A Well, he started by asking me whether the
8 Governor had made up his mind yet on who he might
9 appoint or had somebody in mind to appoint to the
10 Senate seat in the event that Senator Obama would
11 win.

12 q And how did you respond?

13 A I told him the Governor has made no decision yet.

14 q Did he say anything further?

: 44AM

15 A Yes, he said that President, or then Senator
16 Obama, would be very interested in a close friend
17 and ally of his to be made senator in the event that
18 the vacancy was created.

: 44AM

19 q Based upon the description that he gave you, did
20 you have any understanding as to who he was talking
21 about?

22 A Yes.

23 q Who did you understand Congressman Emanuel was
24 referring to?

: 44AM

25 A Although he didn't mention her name, he was

1 referring to Valerie Jarrett, which was my belief.

2 q who was Valerie Jarrett?

3 A A close friend of President Obama's former public
4 official in the City of Chicago, somebody who I had
5 worked with. She was chair of the Chicago Transit
6 Authority at one time, she was a Housing
7 Commissioner at another time. She was somebody that
8 was politically active and a friend of Obama's.

9 q Prior to that phone call from Congressman Emanuel
10 on November the 2nd, had anyone else contacted you
11 about the possibility of Defendant Blagojevich
12 considering Valerie Jarrett for Barack Obama's
13 Senate seat?

14 A Yes.

15 q who?

16 A Ms. Marilyn Katz.

17 q who is Marilyn Katz?

18 A She is a woman who runs her own public relations
19 firm and had done business with me and the City of
20 Chicago in the past, somebody who I believe resided
21 in Hyde Park and was friends with Obama and his
22 friends.

23 q When was it, approximately, that Ms. Katz had
24 contacted you about Valerie Jarrett?

25 A Sometime in October.

Harris - direct by Hamilton

2423

1 q And how did she contact you?

2 A Via e-mail to my Blackberry.

3 q Had you told anyone about the e-mails you
4 received from Marilyn Katz regarding Valerie
5 Jarrett?

6 A Yes.

7 q Who did you tell?

8 A The Governor.

9 q Back to the November 2nd phone call from
10 Congressman Emanuel.

11 You were describing that he described an
12 individual you understood to be referring to Valerie
13 Jarrett, is that right?

14 A Yes.

15 q Was there anything further said in that phone
16 call about the Senate seat?

17 A I told him -- he asked me whether or not he
18 thought it would be helpful if Senator Obama
19 contacted the Governor to advocate for this
20 individual. I said, sure, if he's interested in
21 her, he should call the Governor directly.

22 q And what did he say?

23 A He said I'll let you know but he just first
24 wanted to confirm that no one had been selected and
25 that he wanted to convey to me that President-Elect

Harris - direct by Hamilton

2424

1 had a preference or then senator had a preference.

2 q After that call on November the 2nd from
3 Congressman Emanuel, did you tell Defendant
4 Blagojevich about that call?

5 A Yes.

6 q When?

7 A I believe it was the next day.

8 q Did you tell him in person or over the phone?

9 A Over the phone.

10 q Had you heard a recording of that phone call?

11 A Yes, I have.

12 q In the course of your cooperation with the
13 government, have you heard a number of recorded
14 telephone conversations?

15 A Oh, yes.

16 q At the time that the conversations were taking
17 place, Mr. Harris, did you know that you were being
18 recorded?

19 A No.

20 q When did you learn that certain phone
21 conversations had been recorded?

22 A December 9th.

23 q After you were arrested?

24 A Yes.

25 q During the time that you were Chief of Staff, did

1 you have regular in-person meetings with Defendant
2 Blagojevich?

3 A Most of our meetings were over the phone but we
4 did have face-to-face meetings as well.

:48AM

5 q When you say most of your meetings were over the
6 phone, did you talk to him every day?

7 A Yes.

8 q Approximately how often would you talk to
9 Defendant Blagojevich in a given day?

:48AM

10 A Could be as many as three or four or ten or more.

11 q Generally, was there a means by way he would get
12 a hold of you?

13 A Yes.

14 q And what was that?

:48AM

15 A Through his assistant Mary Stewart, she would
16 contact me. If I was in my office she would walk
17 in, or if I was away from the office she would page
18 me, I would return her call and she would tell me to
19 call the Governor at home.

:49AM

20 q Did Defendant Blagojevich ever call you directly?

21 A No.

22 q And how would you get a hold of him when he
23 wasn't in the office?

:49AM

24 A I would call him at his home or on his cell phone
25 or at the campaign office if he was there.

Harris - direct by Hamilton

2426

1 MS. HAMILTON: Judge, at this time I would
2 ask permission to publish the call, it's call
3 session 117, it corresponds to the transcript behind
4 tab 9. I'm sorry, it's in Transcript Binder 1.

:50AM

5 THE COURT: You may.

6 MS. HAMILTON: And, Judge, would you like to
7 break after the call?

8 THE COURT: Yes.

:50AM

9 MS. HAMILTON: And, Judge, may I approach and
10 hand the witness Government Exhibit Transcript
11 Binder 1?

12 THE COURT: You may.

13 MS. HAMILTON: Judge, if the jury is ready at
14 Transcript Binder 1, tab 9, I'll proceed to publish?

:51AM

15 THE COURT: Go ahead.

16 MS. HAMILTON: Thank you.

17 (Tape played).

18 THE COURT: Fifteen minutes.

19 THE MARSHAL: All rise.

:56AM

20 (The following proceedings were had out of
21 the presence of the jury in open court:).

22 THE COURT: You may step down.

23 (Recess.)

24 THE MARSHAL: All rise.

:27AM

25 (The following proceedings were had in the

Harris - direct by Hamilton

2427

1 presence of the jury in open court:)

2 THE COURT: Please be seated.

3 You may proceed.

4 MS. HAMILTON: Thank you, Your Honor.

5 BY MS. HAMILTON:

6 q Mr. Harris, I'm going to direct you back to the
7 transcript at tab 9, Transcript Binder 1.

8 Are you there?

9 A Yes

10 q Sir, at the top in there is a date and time on
11 the transcript. The date is 11/03/2008 and the time
12 is the 8:35 a.m.

13 When was this call in relation to the call
14 that you just described regarding Rahm Emanuel?

15 A This is the next morning.

16 q Focusing your attention on line 4, Page 1, you
17 say:

18 "Yeah, I just typing up kinda remarks slash
19 process for you."

20 What were you referring to?

21 A The document we previously discussed that I later
22 faxed to the Governor.

23 q You go on at line 7 to say:

24 "I'll fax it to you this morning, give me
25 an idea of reaction, this kinda takes into

1 consideration Knapp's issues and
2 concerns." When you refer to Knapp, who
3 is that?

4 A Mr. Bill Knapp the Governor's political
5 consultant from the D.C. area who the Governor has
6 known for a number of years and who has served the
7 Governor in prior elections as his campaign adviser,
8 message developer, producer of commercials.

9 Q Prior to this call of November 3, 2008, had you
10 been part of discussions with Bill Knapp about the
11 issue of the Senate seat?

12 A Yes.

13 Q So when you said this kind of takes into
14 consideration Knapp's issues and concerns, what were
15 you referring to?

16 A Well, part of the process that I had outlined for
17 the Governor earlier was the open solicitation via
18 the state's website, the questionnaire, the list of
19 questions that we would submit to a shorter list of
20 candidates for their response and review.

21 Knapp had some concerns about some of the
22 questions and whether or not an open process was a
23 wise way to go. Knapp understood the Governor to
24 want a process that was more close to the Governor
25 and less open to a general solicitation.

1 q At line 13 Defendant Blagojevich says:

2 "Yeah, we have to consider Q and A, too,
3 you know."

4 what did you understand him to mean?

5 A well, my letter simply laid out a process and
6 some talking points to the Governor at any expected
7 press conference. The Governor would want to have
8 some questions to review, types of questions he
9 might be asked at a press conference, types of
10 answers he should provide, my memo didn't go that
11 far.

12 q Down to line 17 on page 1 you ask:

13 "Still think McCain can pull that off?"
14 what was that reference to?

15 A The primary, it was between Barack Obama and John
16 McCain for tomorrow's election, and the Governor at
17 that time was hopeful that McCain would pull it off
18 and I asked him whether he still thought that was a
19 possibility.

20 q On to the next page, Page 2, starting at line 1,
21 you say:

22 "I read papers, we read papers, we, you
23 know, we we know, we know what the rumors
24 are out there, but again ..."

25 what were you relaying at this point in the

1 conversation?

2 A The discussion that I had with Rahm Emanuel and
3 that why I believed Rahm was referring to Valerie
4 Jarrett.

:32AM

5 q Okay. So at line 4 when Defendant Blagojevich
6 said he's talking about Valerie Jarrett, what did
7 you understand he was asking you?

8 A Whether I was relatively confident that that was
9 who Rahm was talking about.

:32AM

10 q At line 5 you respond "yeah" and go on to say:
11 "... Yeah, so he said well, do you think
12 would be helpful for Barack to call Rod?"
13 What were you relaying there?

:32AM

14 A I was summarizing my discussion with Rahm the
15 previous day and Rahm asked me whether I thought it
16 would be helpful for Barack Obama to call Rod.

17 q Moving on to the very tail end of line 10 and
18 over to line 11, you say:

:33AM

19 "... ah, so, you may get a call from him or
20 Dave"

21 And Defendant Blagojevich asks:

22 "Dave who?"

23 And then on line 13 you say:

24 "Axelrod."

:33AM

25 What were you relaying there?

1 A I relayed my belief that as a result of my
2 conversation with Rahm Emanuel, the Governor may be
3 receiving a call from either Barack Obama or Dave
4 Axelrod. Dave Axelrod was Barack Obama's campaign
5 manger, political consultant, and somebody who also
6 had previously served as a political consultant for
7 Rod Blagojevich.

8 q At line 15 you say:

9 "... what I was trying to say is, you know,
10 we're not waiting to hear from, and I
11 didn't mention her name but like the
12 Marilyn Katzes and all the other kind of
13 people."

14 what were you relaying there?

15 A That I told Ron that if Barack Obama was
16 interested in Valerie, that either he or somebody on
17 his behalf should call us.

18 q And when you say:

19 "... I didn't mention her name but like the
20 may Marilyn Katzes."

21 what was that in reference to?

22 A The earlier e-mail I received from Marilyn Katz.
23 I knew Marilyn Katz was a friend and supporter of
24 Barack Obama's, I didn't necessarily know whether or
25 not she had any formal role, advisory or otherwise,

1 with the Obama campaign.

2 q Going on to line 21 at the tail end and
3 continuing on you say:

4 "... but it sounds as though, at least if
5 you're going to believe Rahm, that he very
6 much cares about this and has a definitive
7 desire for Valerie."

8 what were you relaying there?

9 A That the interest level was high.

10 q what interest level?

11 A Barack Obama's interest level in Valerie Jarrett
12 being appointed.

13 q You go on at line 26 to say:

14 "... but because he didn't mention Tammy,
15 he would've mentioned Tammy because he
16 said very close to him, somebody very
17 close to him, obviously Tammy's not very
18 close to him."

19 who is Tammy?

20 A Tammy Duckworth was at the time the Director of
21 Veterans Affairs in the State of Illinois. I had
22 recruited her for that position and the Governor
23 appointed her to serve in that position. She was
24 very a popular person, somebody who had been
25 discussed in newspaper reports as a possible

1 candidate, and somebody that I knew Rahm knew very
2 well because in his capacity as the Democratic House
3 campaign chairman, I forget the exact title, but for
4 contested congressional races Rahm got to know her
5 because she ran for Congress and lost and it was
6 after that that I called her in and asked her if she
7 would be interested in serving in the Governor's
8 administration.

9 Q So what were you relaying in that portion of the
10 call lines 26 to 30 that I read?

11 A That I didn't have any doubt that Rahm was
12 talking about Valerie and not some other woman
13 because he did describe the president's interest in
14 a female and somebody very close to him. I know
15 Tammy was close to Rahm, but I didn't believe Tammy
16 was close to Barack Obama.

17 Q At lines 31 and 32 Defendant Blagojevich
18 response:

19 "... okay, now we should get something for
20 that. Couldn't I?"

21 What did you understand him to mean?

22 A We should get some consideration from the
23 President-Elect, if he were to be elected, as part
24 of helping him we should get a favor from him if we
25 were going to do him a favor and appoint Valerie,

1 that's what I understood him to mean.

2 q And when you say "consideration" what do you mean
3 by that?

4 A Some offer of help or some offer of assistance to
5 the Governor if he were going to do this favor for
6 President-Elect Obama.

7 q You respond at line 33:

8 "... yes, and I said, well, if that's the
9 case, I'm sure there'll need to be more
10 discussions, so in but they ought to start
11 with him expressing his interest because
12 up to now, frankly, we haven't heard
13 anything ..."

14 Going on to the next page:

15 "... but we can understand that because
16 he's busy campaigning."

17 What are you relaying at that point in the
18 conversation?

19 A I'm telling the Governor that I expressed to Rahm
20 Emanuel that if we were going to go in this
21 direction, I'm sure the Governor would have -- want
22 to have a lot more discussions with Rahm about what
23 the possibilities were and what benefits for the
24 Governor there would be in exchange for the offer of
25 assistance to the President-Elect.

1 q On Page 3, at line 4, Defendant Blagojevich
2 responds:

3 "... how about Health and Human Services,
4 can I get that?"

5 What did you understand he was asking?

6 A He was asking whether he could ask Rahm or the
7 President-Elect whether or not he could get an
8 appointment as Secretary of Health and Human
9 Services, that would be a federal agency Cabinet
10 appointment.

11 q Now, at this point on the morning of November the
12 3rd, 2008, based on previous discussions that you
13 had had with Defendant Blagojevich about the Senate
14 seat, did you have an understanding that part of the
15 consideration he was looking for was something of
16 benefit for himself?

17 A Yes.

18 q And was it your understanding that him being
19 appointed to the Secretary of Health and Human
20 Services was something that would personally benefit
21 him?

22 A Well, I didn't think about it so much in terms of
23 personal benefit, but yes, it would be for him.

24 q And at line 6 you say:

25 "... I think now that he cares a lot about

1 it and he's willing to make the call,
2 yeah, I think, you know, this is what I
3 was trying to explain to Knapp."

4 What were you saying there?

:39AM

5 A Well, in my prior discussions with Knapp, Knapp
6 had told me that the Governor had wanted to keep the
7 process very close, not open to anybody. And based
8 on my previous discussions with the Governor, I had
9 an expectation and an understanding, as well as
10 Knapp, that the Governor would want to try to get
11 some things from President-Elect Obama or anyone
12 else who was going to be considered for the Senate
13 seat if they had an interest in it.

:39AM

14 Q When you say get some things, what do you mean?

:40AM

15 A Well, I wasn't sure exactly what the list would
16 be or what thing, it depended on who the candidate
17 was. So my understanding, the Governor was going to
18 if he didn't appoint himself, appoint someone else
19 for his benefit, be it political, or governing, or
20 otherwise.

:40AM

21 Q So when you say "I think now that he cares a lot
22 about it," who were you referring to?

23 A Barack Obama.

:40AM

24 Q And what, if anything, did that have to do with
25 the possibility of Defendant Blagojevich getting

1 Health and Human Services?

2 A well, it was something within Barack Obama's
3 power to give if that's something the Governor asked
4 for.

5 q At line 12 Defendant Blagojevich says:

6 "... what can I honestly think I could,
7 might have a shot at getting."

8 what did you understand him to be asking?

9 A Things that he could get for himself.

10 q For what?

11 A In exchange for appointing Valerie Jarrett to the
12 Senate seat.

13 q At lines 14 and 15 you respond:

14 "Ah, well, besides good thing for Illinois,
15 good thing for Illinois."

16 what were you saying there?

17 A well, we had a long wish list of things that we
18 could get we would like help from Washington and the
19 President that would be helpful to the people of
20 Illinois, helpful to the administration, and I
21 thought that he was asking -- I was just clarifying
22 whether or not he was asking for something beyond
23 that when he said "what do I have a shot at
24 getting."

25 q All right. This wish list of things, what are

1 you referring to?

2 A well, each state has a wish list for Washington
3 for aid from the federal government, be it help in
4 legislation, more money. Primarily it comes down
5 to money for the states.

6 Each year the state develops a legislative
7 agenda that it would bring to Washington to present
8 to the President and members of the Illinois
9 delegation, which would be the congressional
10 delegation, as things that the congressmen and the
11 senators should fight for for Illinois, things that
12 we present to the white House for their assistance
13 through state agencies -- I'm sorry, through federal
14 agencies that would provide assistance.

15 It's quite an extensive document that we
16 would prepare each year and we thought that with
17 Obama in the white House that we could have much
18 more success than we had had in the past in getting
19 things that would be helpful.

20 q So just to be clear, this wish list that you are
21 describing, was it created at all in relation to the
22 Senate seat appointment?

23 A No, this would have been created in the normal
24 course of business, but the opportunity for success
25 was enhanced now that Barack Obama was in office or

1 would elected, if he were elected, and especially
2 enhanced if he wanted Valerie Jarrett to be a
3 senator, it would be another point to use to help
4 get a more positive response on our wish list.

: 43AM

5 Q Based on what you knew, was Defendant Blagojevich
6 aware of this wish list that was put together every
7 year for the State of Illinois?

: 43AM

8 A Yes. He may not be aware of all the items on the
9 list, he more likely be aware of the top items on
10 the list, but as a members of the congressional
11 delegation in his previous capacity as a congressman
12 from the 5th District, he would have received this
13 type of wish list from the State of Illinois and the
14 City of Chicago each year while he served. So this
15 is not an obscure document. It was something that
16 happened annually around this time of year.

: 43AM

17 Q And is the wish list something that was created
18 within the Office of the Governor annually?

19 A Yes.

: 44AM

20 Q And, again, just us to be clear, this is a wish
21 list of things that would benefit the State of
22 Illinois, is that right?

23 A Yes.

: 44AM

24 Q And did this wish list contain things that would
25 personally benefit the Governor?

1 A No.

2 Q So when you asked line 14 -- or when you said
3 "besides good things for Illinois, good things for
4 Illinois," you said you were seeking clarification
5 about what?

6 A His remark to me earlier about what I honestly
7 think we can get or that he has a shot at getting, I
8 was just seeking clarification of that.

9 Q And based upon the discussion in the call, did
10 you get clarification?

11 A Yes.

12 Q And what was -- what was made clear to you?

13 A That he was seeking something for himself as
14 well.

15 Q Now, at line 17 you say:

16 "... if he thinks Emil's your top, you
17 know, at the top of your short list."

18 And Defendant Blagojevich responds:

19 "... it's got no bargaining power at all."

20 What are you referring to when you say if
21 he think's Emil's your top, you know, at
22 the top of your short list?

23 A If the President-Elect believed that the Governor
24 was going to appoint Senate President Emil Jones, it
25 would be well understood that the Governor is doing

1 so because Emil had been a past ally and supporter
2 of the Governor's.

3 In other words, the Governor would be
4 appointing Emil based on their personal relationship
5 between Emil and the Governor, not because of Emil's
6 relationship with Obama. Emil's relationship with
7 President Obama has been one of political godfather
8 to Barack Obama. Emil Jones took Barack Obama under
9 his wing early on in his Illinois Senate days and
10 helped developed Barack into a successful senator
11 and formidable candidate for President ultimately.
12 But that Emil had a close relationship with Rod and
13 if Rod were going to appoint Emil, he's not doing
14 that as a favor to President-Elect Obama, he's doing
15 it because of their own personal history.

16 q So when Defendant Blagojevich responds, "it's got
17 no bargaining power at all," what did you understand
18 him to mean?

19 A He understood that appointing Valerie Jarrett was
20 something he would be doing for President-Elect
21 Obama, but appointing Emil Jones would not be. So
22 telling President-Elect Obama that he is appointing
23 Emil didn't offer an opportunity for the Governor to
24 ask for anything from Barack Obama.

25 q So moving down to line 28 you say:

1 "... what can I realistically get really
2 depends on our realistic alternative."
3 what are you saying there?

4 A well, to the extent the Governor is entertaining
5 the possibility there is no other likely candidates
6 out there, then Barack Obama can, through Rahm
7 Emanuel or others, say we're doing you a favor by
8 presenting for your consideration top-notch
9 candidate, so consider this a favor from us, not for
10 us, in giving you Valerie Jarrett, but if the
11 Governor has alternatives that can help the Governor
12 govern, help the Governor politically, help the
13 Governor personally, then the Governor would be
14 giving something up by making Valerie Jarrett his
15 choice.

16 Q And if President-Elect Obama believed he had
17 realistic alternatives, what would that mean for
18 Defendant Blagojevich's ability to negotiate
19 something for himself as far as you were concerned
20 in the course of this discussion?

21 MR. S. F. ADAM: Objection, Your Honor.

22 THE COURT: I'll sustain the objection to the
23 form of the question.

24 BY MS. HAMILTON:

25 Q All right.

1 Focusing back on line 17, starting at line
2 17, you say:

3 "... if he thinks Emil's your top, at the
4 top of your short list."

5 Who is the "he"?

6 A Barack Obama.

7 Q And when you say "Emil's at the top of your short
8 list," your short list for what?

9 A For senator.

10 Q At line 22, you say:

11 "It's got no bargaining power."

12 What did you mean by that?

13 A I was agreeing with the Governor that it would be
14 evident that Emil was not offering -- it would be
15 evident that all Rod is doing, all the Governor is
16 doing is rewarding the past support of Emil Jones as
17 opposed to future considerations.

18 Q When you say "no bargaining power," no bargaining
19 power for what?

20 A For something that the Governor can argue to the
21 White House that I'll consider your candidate if you
22 would help me out.

23 Q So at line 28 when you say:

24 "... what I can realistically get really
25 depends on our realistic alternatives."

1 And at line 31 he says:

2 "Go ahead, who is there."

3 On to the next page, Page 4, line 1 he
4 says" "Bill Daley."

:51AM

5 What did you understand him to be saying at
6 this point in the conversation?

7 A He is raising the names of hypothetical
8 alternatives that could be discussed with Barack
9 Obama or his people that the Governor is

:51AM

10 entertaining, and that those alternatives would be
11 people that are bringing something of value to the
12 Governor or some benefit to the Governor, be it
13 political, personal or his ability to govern.

14 Q When you say hypothetical alternatives, at this
15 point based on your discussions with Defendant
16 Blagojevich, did you believe that he was seriously
17 considering Bill Daley?

:52AM

18 A No.

19 Q Who was Bill Daley?

:52AM

20 A Former commerce secretary under President Clinton
21 and brother of Chicago's Mayor Daley.

22 Q At line 3 Defendant Blagojevich says:

23 "Lisa Madigan."

24 Who is Lisa Madigan?

:52AM

25 A Illinois Attorney General and leader of the House

1 daughter Michael Madigan.

2 q At this point on the morning of November the 3rd
3 based on your discussions with Defendant
4 Blagojevich, did you believe he was seriously
5 considering Lisa Madigan for the Senate seat?

6 A No.

7 q So in the context of this call, what's your
8 understanding as to why Defendant Blagojevich is
9 saying Bill Daley and Lisa Madigan?

10 A It's a way of raising credible alternatives to
11 enhance his bargaining positions if and when
12 discussions continue about Valerie educator.

13 q You respond:

14 "Lisa Madigan."

15 He says:

16 "That's right."

17 And at line 7 he says:

18 "It's Lisa Madigan."

19 And you respond at line 8:

20 "... in terms of credible bargaining power,
21 so it's a very delegate negotiation then."

22 What are you saying there?

23 A Well, he settled on Lisa Madigan as the credible
24 alternative that would be brought into the
25 discussions.

1 q When you say "credible alternative to be brought
2 into the discussions," what do you mean?

3 A That the Governor would convey to the Obama
4 people that he was seriously considering Lisa
5 Madigan and the possibilities that would mean for
6 the Governor in terms of his battles with Speaker
7 Madigan and other relief that the Governor would be
8 seeking, so that to the extent he departs from that
9 path or that alternative and does Valerie Jarrett,
10 that the Governor would be giving something up that
11 would be of some value to the Governor.

12 q So was it your understanding that this would be a
13 credible alternative that Defendant Blagojevich was
14 in fact considering at the time?

15 A Not at this time.

16 q Was this a credible alternative, to use your
17 words, that was hypothetical?

18 A Hypothetical, or she would be a stalking horse in
19 these discussions.

20 q What do you mean "stalking horse"?

21 A She'd be the person that's in the race but that
22 is not necessarily the person that we want to win
23 the race.

24 q And when you say it's a very delicate
25 negotiation, then, what did you mean?

1 A well, bringing her into these discussions is
2 delicate, and I meant by that by create some
3 problems.

4 Q Meaning what?

5 A well, whether or not it would be credible, for
6 how long it would be credible, because they
7 eventually necessarily have to involve discussions
8 with her or someone on her behalf, and that I
9 believe at the time she wouldn't be interested and
10 it was kind of high-risk strategy.

11 Q At line 11 Defendant Blagojevich says:

12 "... think we should leak it to Sneed about
13 Lisa Madigan."

14 What did you understand him to be asking
15 you?

16 A well, how to get her name into the mix and/or at
17 least leave the impression that Lisa Madigan was
18 being considered, an impression that would be
19 learned of by Barack Obama's people, that he
20 suggests one way to get her name in the mix is to
21 leak the rumor that she was being considered or a
22 deal was being worked out between Blagojevich and
23 the Madigans.

24 And "Sneed" he is referring to Michael Sneed
25 a woman who writes a political gossip column for a

1 local paper, a page that a lot of politicians read
2 the first thing before they read the sports.

3 q So just to be clear, you said something about
4 leaking a rumor that there was some deal with the
5 Madigans. At this point on November the 3rd, was
6 there any sort of deal that was trying to be worked
7 out with the Madigans?

8 A No.

9 q And --

10 A This was all still hypothetical or theoretical.

11 q At line 13 you say:

12 "... we're going to have to do something to
13 get it out there."

14 what are you referring to?

15 A That in order for the desired effect to occur,
16 somehow the Obama people would need to know that
17 Lisa Madigan was in play and that it needed to be
18 some way to get them to understand that.

19 q Now, when you say they would need to know that
20 Lisa Madigan was in play, from what you knew, was
21 she actually in play?

22 A No.

23 q At line 15 Defendant Blagojevich says:

24 "In other words, that, you know, Madigan,
25 you know, a scenario where ..."

1 it goes on to line 18:

2 "... we get healthcare, we get ..."

3 what did you understand him saying there?

4 A He was adding kind of meat to the bones this
5 concept of presenting Lisa Madigan as a credible
6 alternative, and that is that one of things he would
7 consider Lisa would be in order to get help with his
8 legislative agenda in Springfield, an agenda that
9 had been routinely blocked by her father, the
10 Speaker, an agenda that included healthcare
11 expansion for all of Illinois.

12 So he's beginning to articulate kind of a
13 story line related to the Lisa Madigan discussion.
14 Lisa Madigan and the Governor were not allies,
15 friends, or otherwise, likely -- she wouldn't
16 otherwise be considered a likely choice but for some
17 sort of deal that would involve legislation in
18 Springfield.

19 q So when you say that it's a story line, it's a
20 story line for who?

21 A For Barack Obama's people.

22 q You go on at line 19 to say:

23 "... the two Madigans approach, you know,
24 send, you know, a message to the Governor
25 blah-blah-blah, something about that about

1 Lisa."

2 What are you saying there?

3 A Just filling in some color and some detail on the
4 fact that this rumor is true or how it happened.

:59AM

5 Q You say you are adding color or detail, what do
6 you mean?

7 A Well, if he was going to talk to or have somebody
8 talk to Michael Sneed, it would be had there been
9 discussions as one party approached the other, what
10 would be the -- what would be the rumor.

:00PM

11 Q Had there been discussions?

12 A No.

13 Q Had one party approached another?

14 A No. No.

:00PM

15 Q So is what you are proposing actually presenting
16 Michael Sneed with false information?

17 A Yes.

18 Q At line 23, Defendant Blagojevich says:

19 "... do me a favor, look up Health and
20 Human Services. Who, who's been there
21 before, Tommy Thompson all these people,
22 right."

:00PM

23 What did you understand Defendant

24 Blagojevich was directing you to do?

:00PM

25 A Research on prior Health and Human Services

1 secretaries.

2 q And you say:

3 "All right, I'll take care of that now."

4 At line 27 he says:

5 "Do you think he promised it to somebody

6 else." You say:

7 "Did who promise it to somebody?"

8 He says:

9 "Obama."

10 what did you understand he was asking you?

11 A whether Barack Obama had committed the post of
12 secretary of Health and Human Services to someone
13 else.

14 q On to Page 5 at line 5 you say:

15 "No, I mean, you know, he could've promised
16 surgeon general Eric Whitaker, maybe, you
17 know, something like but not, not Health
18 and Human Services."

19 Who is Eric Whitaker?

20 A A close personal friend of Barack Obama's and the
21 Governor's Director of Public Health at the time, a
22 state agency involving public health services.

23 q At line 10 Defendant Blagojevich says:

24 "I mean, what other Cabinet positions would
25 be not stupid? How about UN ambassador?

1 Ridiculous?"

2 What did you understand him raising there?

3 A He was just raising the possibility of what other
4 things he might be able to ask for if in the event
5 Health and Human Services was not a realistic
6 possibility.

7 q And you respond:

8 "Yeah, I don't think that's realistic or
9 serious."

10 What were you referring to?

11 A The UN ambassador post.

12 q At line 19 Defendant Blagojevich says:

13 "Start putting down get Health and Human
14 Services."

15 What he did you understand he was saying?

16 A Put on paper the research that he asked me to
17 perform earlier.

18 q At line 22 you say:

19 "Wednesday if we say something politically
20 about your process."

21 What are you referring to there?

22 A I am trying to change the subject to get into
23 Wednesday's press conference which would likely be
24 the day after President Obama's election, that we
25 would need to go out there and talk about the

1 Governor's process for filling the vacancy.

2 (Sneezing in the courtroom.

3 THE WITNESS: Bless you.

4 BY MS. HAMILTON:

5 Q You say at line 25:

6 "... it's got to be very supportive of the
7 President-elect's agenda."

8 Defendant Blagojevich says:

9 "No question."

10 You say:

11 "So that way, you know, people don't think
12 we're trying to undermine his agenda."

13 What are you saying there?

14 A Well, there had been some rumors in the paper,
15 some discussions in the paper about some bad
16 feelings between Governor Blagojevich and Barack
17 Obama and I wanted to use the press conference to
18 address that by asserting his strong support of the
19 President-Elect and his agenda, kind of put those
20 rumors to rest.

21 Q On to Page 6 at the top, Defendant Blagojevich
22 says:

23 "Right, and I very much want to hear what
24 his views are and any suggestions he might
25 have." what did you understand he was

1 saying there?

2 A He's adding some proposed context or content to
3 the press conference that he would seek out
4 President-Elect Obama's suggestions or invite him to
5 make suggestions.

6 q Line 8 Defendant Blagojevich says:

7 Okay, we have to talk through this today."

8 And you say:

9 "Right."

10 And was it your understanding that you would
11 have further discussions that day about the Senate
12 seat.

13 A Yes.

14 MS. HAMILTON: Judge, at this time I ask
15 permission to publish session 149 which corresponds
16 to the Transcript Binder 1, at tab 10.

17 THE COURT: Yes.

18 (Tape played).

19 BY MS. HAMILTON:

20 q I'm going to focus you on Page 1 of the
21 transcript at tab 10.

22 Are you there?

23 A Yes.

24 q The day of this call is November the 3rd and the
25 time is 1:22 p.m., is that right?

1 A Yes.

2 q So this was later in the day from the
3 conversation we just went through at tab 9?

4 A Yes.

5 q At line 5 Defendant Blagojevich says to you:
6 "... so Balanoff and Andy Stern are coming
7 in to talk about Jackson."

8 A Yes.

9 q Who are Balanoff and Andy Stern?

10 A Labor leaders.

11 q What's Balanoff's first name?

12 A Tom Balanoff is a vice president of Service
13 Employees International Union, or SEIU for short,
14 and Andy Stern is the president or was the president
15 of that union, that's a national union I believe of
16 over nearly 2 million members strong, very
17 influential labor leader and early supporter of
18 Barack Obama's.

19 q Were they also supporters of Defendant
20 Blagojevich?

21 A Yes, very much so.

22 q So he says:

23 "So Balanoff and Andy Stern are coming in
24 to talk about Valerie Jarrett."

25 What did you understand him to be saying?

1 A That Andy Stern and Tom Balanoff would be coming
2 on behalf of Barack Obama to ask for the Governor to
3 consider appointing Valerie Jarrett.

4 q And you respond:

5 "Oh, they are."

6 Had you heard anything about this before
7 this call?

8 A No.

9 q He goes on at line 8 to say:

10 "Yeah, Obama told Andy Stern he wants her."

11 It goes on at line 11:

12 "That's the tip-off we got from Doug
13 telling Greenlee."

14 What did you understand him to be saying
15 there?

16 A He's telling me what he believes their agenda is
17 for the meeting and that we had a tip-off on the
18 agenda from Doug, he is referring to Doug Scofield
19 who is a consultant or paid consultant for SCIU, a
20 former employee of the Governor's, campaign adviser
21 of the Governor's. So Doug is a mutual friend of
22 both the Governor and Tom Balanoff. And Doug
23 apparently told this to Bob Greenlee, Deputy
24 Governor Bob Greenlee at our office.

25 q At line 13 you say:

1 "So is Andy the chosen messenger?"

2 What were you asking?

3 A Is Andy going to come in and ask for this on
4 behalf of Barack Obama.

:13PM

5 Q Why was that something you wanted to know?

6 A Because of my previous call with Rahm Emanuel,
7 whether or not when Rahm told me that -- asked me
8 whether it would be helpful if Barack contact the
9 Governor and express his wishes, I told him yes, and
10 I told the Governor earlier that I thought it would
11 either be Barack himself or Dave Axelrod, but in
12 this case I thought perhaps it was going to be Andy
13 Stern that was chosen to make the ask.

:14PM

14 Q At line 15 Defendant Blagojevich responds:

15 "I don't know.

:14PM

16 And you say line 16:

17 "I mean, we gotta find out from Andy, how
18 long ago did Andy try to set up, set this
19 meeting up."

:14PM

20 And Defendant Blagojevich responds:

21 "Last week."

22 What did you understand him to be saying?

23 A That Andy had been trying to schedule a meeting
24 with the Governor as late as the week before, which
25 would've been before my discussion with Rahm on the

:14PM

1 telephone on Sunday the 2nd of November.

2 q Before this call, did you know anything about
3 Andy Stern trying to set up a meeting with Defendant
4 Blagojevich?

5 A No.

6 q On page 2, at line 3, Defendant Blagojevich says:
7 "And Emil's calling Balanoff."
8 what did you understand him to be saying
9 there?

10 A That somewhere the Governor heard, perhaps
11 through the same series of calls, that Emil Jones
12 was calling Tom Balanoff, reaching out to Tom
13 Balanoff.

14 q And at line 6 you ask:

15 "To do what?"

16 And at line 7 Defendant Blagojevich responds:
17 "For him."

18 what did you understand him to be saying?

19 A That Emil Jones is trying to use Tom Balanoff to
20 help him in his efforts to get the appointment for
21 himself to the vacant Senate seat or the soon to be
22 vacant Senate seat.

23 q At line 11 Defendant Blagojevich says:

24 "Emil wants me to come to his box tomorrow,
25 his suite."

1 what did you understand him to be saying?

2 A There was a victory rally being planned at Grant
3 Park in the event that Barack Obama won the election
4 on Tuesday, and Emil was going to attend the victory
5 in Grant Park but he was going to have a party or a
6 reception in a suite at a hotel I believe on
7 Michigan Avenue and invite friends and supporters to
8 celebrate.

9 Q At line 13 you say:

10 "...we can always tell, we can always tell
11 Balanoff and Stern that Emil, I'm just
12 thinking, Emil told us that Obama wants
13 him. Kinda forces Obama to call you. Say,
14 guys I can't, I can't know which is true."

15 What are you saying there?

16 A Well, Emil was telling the Governor that Barack
17 Obama would be supportive of Emil's candidacy or
18 Emil's selection, and if Andy Stern or Tom Balanoff
19 told us that President-Elect would like Valerie
20 Jarrett, we would have to confront them with our
21 dilemma.

22 Q Why?

23 A Because we wouldn't know for sure who was talking
24 for Obama.

25 Q At line 19 Defendant Blagojevich says:

1 "Listen, I wanna, I wanna war game this a
2 little bit, okay."

3 what did you understand him to be saying?

4 A He wanted to think through and strategize about
5 how to handle the meeting with Andy Stern and Tom
6 Balanoff.

7 q At line 22 he says:

8 "You can't pull, you can't do the Health
9 and Human Services thing with them right
10 now, right? We're just listening."

11 what did you understand him to be saying?

12 A well, he's beginning to strategize how the
13 meeting might go and what he might say and he's
14 saying that he doesn't think it would be a good idea
15 to spring his request for an appointment to the
16 Cabinet as Secretary of Health and Human Services at
17 this meeting.

18 q You say "right" and at line 26 he says:

19 "Right. I don't throw that out now, do I?"

20 And you say:

21 "No, no, no, you don't throw that out, too
22 soon. First we got to act I think
23 puzzled." what are you saying?

24 A well, I'm trying to tell him that at this first
25 meeting we should just sit and listen.

1 q On to Page 3, at the top, Defendant Blagojevich
2 says:

3 "Right, and then the other thing is, you
4 know, we should talk. I want you to think
5 whether I just say, hey look, what about,
6 what about Lisa Madigan and then explain
7 okay, there's a carrot and a stick thing
8 going on right now, calling everybody."

9 what did you understand Defendant
10 Blagojevich to be saying there?

11 A He's raising the possibility of putting Lisa
12 Madigan idea into the discussion and bringing that
13 into the discussion as a way of getting that message
14 delivered back to Obama's people if in fact and Andy
15 Stern and Tom Balanoff were there on their behest.

16 q And when you are referring to the Lisa Madigan
17 idea, what were you referring to?

18 A That there is some sort of deal in the works to
19 appoint Lisa Madigan to the Senate seat.

20 q And, again, at this time was there any such deals
21 in the works?

22 A No. No.

23 q At line 8 you say:

24 "Certain people have approached us, telling
25 this is Madigan's design."

1 And Defendant Blagojevich says:

2 "That he wants."

3 what are you saying there?

4 A Kinda rehearsing how he might say this.

5 Q Say what?

6 A That there's an interest by Lisa and her father
7 and they have approached us.

8 Q At line 13 Defendant Blagojevich says:

9 "what do you do to keep him, I mean, Emil
10 is a possibility, I'm not going to rule
11 him out by any means."

12 what did you understand him to be saying?

13 A That he still considers Emil a possibility.

14 Q Line 16 you say:

15 "No, no, no, I think they're just going to
16 --"

17 And he says:

18 "He's a fall-back."

19 what did you understand he meant by that?

20 A I wasn't sure.

21 Q At line 18 you say:

22 "Going to the box is more than enough
23 message, warm and comfort stroke."

24 what did you mean?

25 A That since the passage of the ethics bill, the

1 relationship was somewhat cooled down and the fact
2 that Emil went to Tom Balanoff or had later on, I
3 would say, John Kelly called me was evidence of the
4 fact that Emil felt he was no longer a possibility
5 and I suggested to the Governor that if he goes to
6 the box, that it would send a warm message and Emil
7 would believe that he is not necessarily out of the
8 running.

9 Q At line 22 Defendant Blagojevich says:

10 "I mean, when do you have a conversation
11 with him about that other thing we talked
12 about." And you said:

13 "Trying to meet with him off campus
14 somewhere." what did you understand
15 Defendant Blagojevich was asking you at
16 lines 22 through 24?

17 A The Governor had mentioned to me on several prior
18 occasions, had asked me to meet with Emil Jones
19 about the possibility of Emil Jones giving him some
20 or all of the funds in his campaign war chest if the
21 Governor were going to appoint him as the senator
22 because Emil Jones would no longer have use for
23 those funds raised under state election laws. They
24 couldn't be used in federal elections, so Emil
25 wouldn't have any use for them anymore, and the

1 Governor said that if he were to consider appointing
2 Emil, he'd want Emil to give him some or all of his
3 campaign war chest as part of that.

4 q At line 25 you say:

5 Trying to meet with him off campus
6 somewhere." Had you met with him at that
7 point as Defendant Blagojevich had
8 directed you to do?

9 A No, I had not met with him and not attempted to
10 meet with him.

11 q And not what? I'm sorry.

12 A Not attempted to meet with him.

13 q And at lines 27 Defendant Blagojevich says:

14 "Yeah, 'cause an off campus, that's a
15 tactical thing. An off-campus discussion
16 on that subject would make him feel better
17 about his chances."

18 what did you understand Defendant
19 Blagojevich to be saying?

20 A He was saying that if I met with Emil and had the
21 discussion that the Governor wanted me to have with
22 him, that it would send a strong message that Emil
23 was under consideration and remained under
24 consideration.

25 q Consideration for what?

1 A For appointment to the Senate seat.

2 q Over on Page 4, at line 3, he says:

3 "In his mind, do you agree with that."

4 What was that a reference to?

5 A He's asking me whether I agree with his
6 assessment of what that discussion would result in,
7 whether or not it in fact would cause Emil to
8 believe that he was still in consideration.

9 q You respond at line 4:

10 "Uh-huh. Or if he has no intention on
11 doing it, it may push him away if he
12 thinks, you know, if that's the ..."
13 What were you saying there?

14 A I was pointing out to the Governor that if I
15 delivered the message as he asked me to, it might
16 push Emil away and say thanks, but no thanks, if I
17 got to give money as part of this, I don't want to
18 do it.

19 q And then at line 7 Defendant Blagojevich says:

20 "All right, don't have the conversation
21 with him then, forget it. Don't even,
22 done even do it, I don't wanna -- I'll
23 talk to you about it when I see you."

24 What did you understand him to be telling
25 you there?

1 A I think he saw the risk inherent in the
2 conversation and agreed with me not to have the
3 discussion.

4 Q You say:

5 "Okay, see, what I mean. It could
6 backfire." And at line 13 he responds:
7 "No, you got the wrong thing, that's not
8 what I'm talking about ..."
9 and he goes on line 19:

10 "... prospective help."
11 What did you understand Defendant
12 Blagojevich to be saying there?

13 A It wasn't clear to me.

14 Q At line 23, Defendant Blagojevich says:

15 "Do they think that -- they think that I
16 would just appoint Valerie Jarrett for
17 nothing just to make him happy?"

18 What did you understand Defendant
19 Blagojevich to be saying there?

20 A I think he was just sharing with me his thoughts
21 about what Barack Obama was willing to do to help
22 Valerie win the appointment and he said, "do they
23 think I would appoint her for nothing," posed it as
24 a question.

25 Q And you said "yeah," at line 26:

1 "... along what we talked about the other
2 ... " he says:

3 "They'd help me. ..."

4 And you say:

5 "Help, help the, the political, your
6 political agenda, your, meaning your ..."
7 over on to Page 5, line 1:

8 "... your governing agenda, not your
9 political agenda."

10 what were you saying there?

11 A Well, I told him I don't think they would expect
12 to do nothing for it. I thought that they fully
13 would expect to help -- expect us to ask them to
14 help the Governor with his governing agenda, to be
15 helpful to the Governor in his efforts to get his
16 legislative agenda through, to assist Illinois with
17 more federal funding, and other types of assistance
18 we were looking for from federal agencies.

19 Q And at line 3 Defendant Blagojevich responds:

20 "My governing agenda."

21 Line 5:

22 "That was brought to your attention?"

23 What did you understand he was asking you?

24 A He asked me whether they specifically offered
25 that.

1 q And at line 6 you say:

2 "No, no, I'm just guessing."

3 How did you respond?

4 A well, I'm telling him no, what I'm guessing is
5 that they're not expecting you to do it for nothing,
6 what I'm guessing is that you're expecting them to
7 help you with your governing agenda.

8 q And at line 8 Defendant Blagojevich says:

9 "well, Marilyn Katz was their first
10 emissary, right?"

11 what did you understand him to be referring
12 to?

13 A The earlier discussion that I told him about my
14 e-mails with Marilyn Katz.

15 q And at line 11 he says:

16 "She was talking about fundraising."

17 what did you understand him referring to
18 there?

19 A well, he highlighted one of the issues that
20 Marilyn Katz raised saying that there would be
21 significant groups across the country that would
22 be -- that we would gain good will with and that
23 they also had provided financial support to
24 candidates and elected officials that they support.

25 q So at lines 12 through 21 you say:

1 "Yeah, yeah. She was talking about friends
2 around the country, that would be
3 appreciative, and their ability to help
4 with fundraising, and, ah, the media would
5 be all over you, ah, crediting for the
6 choice, a wise, such a wise choice, and
7 that she would work tirelessly as would
8 other allies of his to get you good press
9 on this appointment."

10 What were you relaying there?

11 A Well, I was trying to downplay the fundraising
12 aspect of my discussions with Marilyn, and just
13 trying to reiterate as best as I recall at the time
14 the nature of the e-mail communication, the things I
15 discussed with Marilyn, and that most of her
16 emphasizes was that this would be a good appointment
17 for the Governor, he would be credited with the
18 choice, and that she and other allies would help him
19 get good press. She was a public relations
20 consultant.

21 Q And at line 22 Defendant Blagojevich says:

22 "Good press."

23 Line 24:

24 "That's all she's offering?"

25 26:

1 "No friends around the country."

2 You say:

3 "Yeah, friends around the country, positive
4 local media."

5 Are you still talking about what Marilyn
6 Katz had relayed to you in her e-mails."

7 A Yes.

8 Q On to Page 6, at line, Defendant Blagojevich
9 says:

10 "And everything you've talked about in
11 healthcare is what we've either done or
12 we're working to try to get done. Okay.
13 Who's done more for healthcare in any
14 state than me, right? Heck of a lot more
15 than Tommy Thomson did. Is that fair to
16 say or no?"

17 What did you understand Defendant
18 Blagojevich was saying there?

19 A He's saying that his credentials are as good or
20 better than prior secretaries of Health and Human
21 Services as a way of explaining that the appointment
22 to him to that post would make sense.

23 Q As a way of explaining to whom?

24 A To whoever was coming in and asking for Valerie
25 Jarrett.

1 q And you say:

2 "Ah, I don't know. Probably. If it were
3 repeated nationwide, oh, yeah, it would
4 be, and what he did in Wisconsin, yeah
5 absolutely."

6 I should have asked you before, Tommy
7 Thompson is mentioned a couple of times, who is
8 Tommy Thompson?

9 A He was the former Governor from the State of
10 Wisconsin. He instituted some modest healthcare
11 reforms and initiatives in Wisconsin and was later
12 selected by I believe George Bush, Sr., maybe even
13 Clinton, I'm not sure which, to be the Health of
14 Health Services Secretary.

15 q And so he had been a former Secretary of Health
16 and Human Services?

17 A Yes.

18 q At line 16 Defendant Blagojevich says:

19 "Kaiser Foundation ranked us number one. I
20 don't know if we still are, but we were.

21 In expanding healthcare, under me."

22 What did you understand him to be referring
23 to there?

24 A That Illinois' record and the Governor's record
25 on healthcare was recognized and recognized by

1 leading institution in healthcare advocacy and
2 family advocacy called the Kaiser Foundation.

3 q And then he says on line 21:

4 "Can you get that, can you get that for me.
5 Not right now, but that should be part of,
6 I mean we're not going to talk about that
7 with Balanoff, but you know what I'm
8 saying."

9 what did you understand Defendant

10 Blagojevich to be saying to you there?

11 A To begin assembling the argument for Health and
12 Human Services.

13 q The argument to whom? Being made to whom?

14 A To Obama or his chosen representatives.

15 q Again, what is your understanding as to why these
16 arguments would be made to Obama or his
17 representatives?

18 A As part of the response the Governor would give
19 to Obama's request to appoint Valerie Jarrett, that
20 the Governor would like to be appointed Secretary of
21 Health and Human Services and here are additional
22 reasons we think he's qualified for the post.

23 MS. HAMILTON: would you like to break for
24 lunch?

25 THE COURT: what's next?

1 MS. HAMILTON: I will be changing topics to a
2 meeting that happens later on on the 3rd,
3 November the 3rd.

4 THE COURT: We'll break. One hour.

5 THE MARSHAL: All rise.

6

7

8

9

10

11 (The following proceedings were had out of
12 the presence of the jury in open court:)

13 THE COURT: We are in recess.

14

15 (Luncheon recess taken from 12:33 o'clock
16 p.m. to 1:40 o'clock p.m.)

17

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25

:32PM

Harris - direct by Hamilton

2474

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Government,

vs.

ROD BLAGOJEVICH,
ROBERT BLAGOJEVICH,

Defendants.

No. 08 CR 888

Chicago, Illinois

June 22, 2010

1:40 o'clock p.m.

VOLUME 12
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. ZAGEL
AND A JURY

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1 (The following proceedings were had out of
2 the presence of the jury in open court:)

3 THE CLERK: The Court resumes in session.

4 THE COURT: Counsel, approach.

5 okay, what's up?

6 MR. SCHAR: Judge, we wanted to update you
7 from our perspective on the progress or lack of
8 progress in relation to the motion for out-of-court
9 statements.

10 Per your request, government representatives
11 met with defense representatives on Friday morning
12 and offered a proposal limiting certain statements.
13 There were some discussions about a modification of
14 our proposal which would effectively allowed
15 statements about no opinions, no commentary, just
16 comments on factual evidence or scheduling matters,
17 or things liking that. An agreement was made at
18 4:00 o'clock on Friday afternoon that another
19 conversation would occur.

20 We never received a call. We put in a call
21 to defense counsel and never received a response.
22 Yesterday morning, the issue was raised again with
23 defense counsel whether it was possible that there
24 would be an acceptable modification to the
25 government's proposal. Defense counsel indicated

1 that it would get back to us by the end of the day
2 and we heard nothing.

3 At the end of the day yesterday, it's my
4 understanding, although I did not watch the news,
5 that one of the defendants again left the building
6 and either unclear to us whether they meant
7 government counsel or the witnesses or both, but
8 basically saying that everybody was lying.

9 So, clearly, at least one of the defendants
10 is not taking the issue under advisement the way
11 that we had hoped. And we're not clear at this
12 point whether it's just there's never going to be an
13 agreement or they're not going to get back with us
14 with a response, but it seems from to the
15 government's perspective we're not making any
16 progress and it seems that things have gotten pushed
17 under the carpet at this point.

18 MR. SOROSKY: If I may respond briefly. I
19 think there is progress. I think this is a
20 two-point matter; one, what the counsel could say
21 and, two, what a defendant could say, and I think
22 that there is certainly a distinction between what
23 counsel could say and what an accused could say.

24 THE COURT: Let me ask you one question.

25 MR. SOROSKY: Pardon me?

1 THE COURT: Are you leading up to the
2 proposition that you can agree on what counsel can
3 say and the disagreement is on what your client can
4 say?

5 MR. SOROSKY: Yes, Your Honor.

6 THE COURT: Okay. Now, so you can just
7 address that.

8 MR. SOROSKY: And so we're still trying to --
9 we're still trying to make some effort to try to
10 resolve this. I don't know if we can, but we'll try
11 to resolve it after court today if possible; if not,
12 of course Your Honor will decide.

13 THE COURT: Okay.

14 MR. SCHAR: Judge, if we don't have an
15 agreement by the end of the day today, we'll be back
16 tomorrow morning and we would like to raise the
17 issue then.

18 THE COURT: That's okay.

19 MR. GOLDSTEIN: Your Honor, one quick matter.
20 We recently did file a motion for a mistrial.

21 THE COURT: I haven't seen it.

22 MR. GOLDSTEIN: It was filed literally
23 minutes ago.

24 THE COURT: Hand it up.

25 (Brief pause).

1 (The following proceedings were had in the
2 presence of the jury in open court:)

3 THE COURT: Please be seated.

4 JOHN HARRIS, GOVERNMENT WITNESS, PREVIOUSLY SWORN
5 DIRECT EXAMINATION resumed

6 BY MS. HAMILTON:

7 q Mr. Harris, before the break we went through
8 a recorded conversation in which there were
9 references to the possibility of an off-campus
10 meeting with Senate President Emil Jones, do you
11 remember that?

12 A Yes.

13 q And during that call Defendant Blagojevich told
14 you not to proceed with the meeting, is that right?

15 A Yes.

16 q Did the topic of having the off-campus meeting
17 with Emil Jones come up again in later
18 conversations?

19 A Yes.

20 q And, sir, in that phone call we went through
21 there was also some discussion about a meeting with
22 Tom Balanoff and Andy Stern, is that right?

23 A Yes.

24 q On November the 3rd, 2008, did you attend a
25 meeting with Tom Balanoff and Andy Stern?

1 A Yes.

2 q Where did that meeting take place?

3 A At the Governor's Office at the Thompson Center
4 here in Chicago.

5 q Approximately when on November the '3rd did that
6 meeting take place?

7 A Sometime in the afternoon.

8 q Who was at that meeting?

9 A Myself, Andy Stern, Tom Balanoff, the Governor,
10 and I believe Doug Scofield.

11 q What happened during that meeting on November
12 the 3rd, 2008?

13 A The meeting began with some exchange of
14 pleasantries. The Governor had not seen Andy Stern
15 in sometime since he's based in Washington I
16 believe, whereas Tom Balanoff resides here in the
17 Chicagoland area and would meet with the Governor
18 more often related to labor matters and interests to
19 SCIU and the Governor.

20 And they proceeded to have a discussion about
21 the upcoming election which was the next day.
22 Talked a little bit about Andy Stern's involvement
23 and support of then Senator Obama and then the topic
24 moved to the discussion of the Senate seat.

25 q After the topic moved to the discussion of the

1 Senate seat, what was said?

2 A Both Tom and Andy asked the Governor whether he
3 had made a choice yet. The Governor relayed that he
4 had not. And they began discussing several names
5 and their interest in the names.

6 The primary purpose as I understood the
7 meeting after it got under way, was that Tom and
8 Andy both urged the Governor not to consider Jesse
9 Jackson, Jr., they urged him to support no
10 particular candidate at that time but rather they
11 said that Valerie Jarrett was someone he would
12 consider, they would have no objection. If Jan
13 Schakowsky or other names came up, they expressed
14 their opinions on various candidates.

15 And they understood that after the Governor
16 told them that should he seek reelection for a third
17 term, the Governor's assessment was that he should
18 choose an African-American to fill the vacancy, and
19 if the Governor were going to seek a third term they
20 understood that consideration.

21 The Governor also told them that Emil Jones
22 had expressed an interest in it and had indicated
23 the support of Barack Obama at the time. And the
24 conversation went back and forth on the Governor's
25 efforts.

1 The Governor had raised the possibility and
2 suggestion that he had been approached by people
3 interested in working out a deal with the Governor
4 to appoint Lisa Madigan in exchange for the
5 Speaker's cooperation in Springfield on a package of
6 legislation. The Speaker being Lisa Madigan's
7 father, Speaker Michael Madigan.

8 Q And, Mr. Harris, as far as you knew at that time
9 on the afternoon of November 3rd, had anyone, in
10 fact, approached Defendant Blagojevich about such a
11 deal?

12 A Not as far as I knew.

13 Q Based upon what you had discussed with Defendant
14 Blagojevich prior to this meeting, what was your
15 understanding as to why he told Mr. Balanoff and
16 Mr. Stern that if it wasn't true?

17 A To lay groundwork for negotiations if there were
18 going to be an ask by President Obama of Valerie
19 Jarrett.

20 Q And with respect to what Defendant Blagojevich
21 said in relation to Senator Speaker Jones' interest
22 for the Senate seat, based on the prior discussions
23 that you had with Defendant Blagojevich's before
24 this meeting, did you have an understanding as to
25 why he raised that in the meeting with Mr. Balanoff

1 and Mr. Stern?

2 A I believe there is two reasons: One, just to get
3 their reaction. And they indicated that they would
4 understand why the Governor might consider Senate
5 President Jones because of their close political
6 alliance over the years, and, as well, to explain to
7 them, to both Andy and Tom, that Emil Jones as a
8 friend and ally would be someone of a big ask for
9 somebody to ask the Governor to not make that
10 appointment, that if the Governor would be giving
11 something up of significant value to him or
12 importance.

13 Q You said that Mr. Balanoff and Mr. Stern
14 mentioned Valerie Jarrett. What, if any, response
15 did Defendant Blagojevich have to Ms. Jarrett's name
16 being mentioned?

17 A He asked both Mr. Stern and Mr. Balanoff whether
18 or not Barack Obama wants Valerie, and they have
19 offered to go back and check to confirm his interest
20 and his desire for her to be appointed.

21 Q Did he say anything further about the possibility
22 of making Valerie Jarrett senator?

23 A Well, he said if he made Valerie the senator, he
24 would be foregoing either appointing his long-time
25 ally Emil Jones, he would foregoing appointing

1 himself, or he would be foregoing pursuing a
2 negotiation or a package deal with Speaker Madigan
3 to get good things done for the people of Illinois
4 to move some of our stalled legislative agenda
5 forward.

:53PM

6 q Was there anything further said in that meeting
7 with respect to the Senate seat?

8 A That they would, that Andy and Tom would go check
9 with President-Elect Obama or his people and come
10 back with the answer that they received.

:53PM

11 And there was a few other names mentioned
12 about people that had contacted either Andy or Tom
13 to express an interest in it and try to solicit
14 their support for an appointment.

:54PM

15 q You said that one of the things that they
16 mentioned was that -- I'm sorry, Mr. Stern and
17 Mr. Balanoff mentioned was that they did not want
18 Defendant Blagojevich to appoint Jesse Jackson, Jr.,
19 is that correct?

:54PM

20 A Yes.

21 q Did Defendant Blagojevich respond to that at all
22 in the meeting?

23 A Yes.

24 q How did he respond?

:54PM

25 A He told them that was not likely, that he shared

1 their view that he would not be a suitable or
2 desirable candidate.

3 q Now, you said that there were a number of names
4 that were mentioned and one of the names you said
5 was Jan Schakowsky, is that correct?

6 A Yes.

7 q Who is Jan Schakowsky?

8 A She is a U.S. congresswoman from a district on
9 the lakefront of Chicago and an ally of SCIU's.

10 q And when you say SCIU, again that was the labor
11 union that Mr. Stern and Balanoff represented?

12 A Yes. And the Governor responded to that
13 particular suggestion as one that although the
14 Governor and Jan were close and allies at times,
15 that if he were to not send himself to the
16 Senate--meaning the Governor appoint himself--and
17 chose to run a third term, it would cause a problem
18 for him politically not to appoint an
19 African-American.

20 q Now, Mr. Harris, you have already testified that
21 the election was held on November the 4th, 2008,
22 correct?

23 A Yes.

24 q Were you in the office that day?

25 A No, I was not.

1 q why not?

2 A Election day is a state holiday and offices are
3 closed.

4 q Nonetheless, did you talk with Defendant
5 Blagojevich over the phone that day?

6 A Yes, I did.

7 MS. HAMILTON: Your Honor, at this time I
8 would be asking permission to publish the call
9 sessions 171 and 173 which correspond to the
10 transcript behind tab 13 in Transcript Binder 1.

11 THE COURT: You may.

12 (Tape played)

13 BY MS. HAMILTON:

14 q Mr. Harris, I'd like to direct you back to Page 1
15 of the transcript behind tab 13.

16 Are you there?

17 A Yes.

18 q The day and time of this call is November
19 the 4th, 2008, at 8:57 a.m., is that right?

20 A Yes.

21 q So was this the morning of the election?

22 A Yes.

23 q And where were you during this call?

24 A Having breakfast in a restaurant on Ashland
25 Avenue.

1 q who were you with?

2 A Bill Quinlan.

3 q Directing your attention to Page 1, line 5,
4 Defendant Blagojevich says:

5 "All right, on the phone with Greenlee, got
6 a lot of stuff to think about today. We
7 gotta work on this tomorrow's schedule,
8 what we do."

9 what did you understand Defendant Blagojevich
10 to be saying there?

11 A That he had recently had a phone conversation
12 with Bob Greenlee about his planned press conference
13 or statement that would be occurring the day after
14 the election on the presumption that Barack Obama
15 won the election.

16 q And the press conference would be about what?

17 A The Governor's thinking and the process he would
18 be following to select a senator to fill the
19 vacancy.

20 q Starting at line 10 Defendant Blagojevich says:

21 "politico.com put out, put in that, ah,
22 Andy Stern and Balanoff came to see me
23 about Obama's choice for, ah, senator."

24 what did you understand him to be telling
25 you?

1 A That either he read or somebody told him about
2 the story in a media site called politico.com that
3 Andy Stern and Tom Balanoff came in to visit the
4 Governor about his senate pick.

5 q And he goes on to say at line 15:

6 "Valerie Jarrett."

7 And you ask at line 16:

8 "That's how they wrote it up?"

9 What were you asking?

10 A I was asking whether or not the story included
11 the mention of Valerie Jarrett.

12 q He responds at line 17:

13 "Yeah."

14 And at line 18 you say:

15 "Yeah, we should simply just say we met
16 with Andy and Balanoff on a number of
17 issues."

18 What were you saying there?

19 A That if he's asked a question about the Balanoff
20 meeting or the Stern meeting, that that's how we
21 should answer it.

22 q On Page 2, starting at line 1, Defendant
23 Blagojevich says:

24 "They probably got that from Andy Stern,
25 that's a good sign, that would suggest

1 he's, you know, an emissary for Obama,
2 right?"
3 what did you understand him to be asking
4 you?

:17PM

5 A I think he was expressing an opinion to me and
6 was asking for my agreement or not that Andy
7 wouldn't talk about a meeting with the Governor
8 about a Senate candidate without some reasonable
9 expectation that he would be successful.

:17PM

10 q Now, at this point did you have any clear
11 understanding as to whether or not Mr. Stern or
12 Mr. Balanoff had, in fact, been sent on behalf of,
13 at that point, Senator Obama?

:17PM

14 A No, I did not have a clear understanding at that
15 point.

16 q At line 8 Defendant Blagojevich says:
17 "I mean, they could be emissaries for
18 Valerie Jarrett but I got a feeling in
19 this case it's not."

:17PM

20 what did you understand him to be saying?

21 A We believed that they were emissaries for Barack
22 Obama, suggesting they could be emissaries for
23 Valerie Jarrett herself but he didn't believe that
24 was the case.

:18PM

25 q At line 11 you say:

1 "No, I don't think it's for Valerie as much
2 as it is for Barack, but it still puzzles
3 me why they wouldn't be a little bit more
4 overt with it."

5 What are you saying there?

6 A I agreed with him that I thought it was more
7 likely they were representing Mr. Obama, but I was
8 still wondering out loud why they didn't just come
9 in and say we've been sent by Barack Obama to ask
10 you a question.

11 Q And starting at line 15 Defendant Blagojevich
12 responds:

13 "I'll tell you why, because they don't want
14 anybody to say that he's saying it."

15 And on line 18:

16 "They don't want to a trick bag, he, they
17 want to be very careful and protect him."

18 What did you understand Defendant Blagojevich
19 to be saying there.

20 A That Andy Stern and Tom Balanoff were trying to
21 provide some insulation for Barack Obama, that
22 Barack Obama would not want it to be publicly known
23 that he had a preference for his vacant Senate seat
24 and would not want it to get out because they would,
25 in addition to other things, could upset other

1 candidates that thought had Barack Obama's support.

2 q And then at line 26 you say:

3 "But they did recommend to us just call and
4 put the question right on him."

5 You go at line 29:

6 "They did recommend us to call Dave and put
7 the question right on him."

8 What are you saying there?

9 A I was raising the question in my mind that if
10 they were, in fact, the chosen messengers or
11 emissaries for Barack Obama, it was not consistent
12 with them asking us to call Barack Obama or his
13 campaign manger, Dave Axelrod, directly and ask for
14 ourselves he whether had an interest or a
15 preference.

16 q And had that, in fact, been something that they
17 had recommended?

18 A At some point in the meeting it was suggested
19 that we call Dave Axelrod.

20 q At the bottom of Page 2, line 31, Defendant
21 Blagojevich says:

22 "Yeah, another indication, isn't it?"

23 What did you understand him to be asking
24 you?

25 A Well, he thought that was an indication that they

1 were sent by Obama, I thought otherwise.

2 q Is that what you then explained at the top of
3 page 3?

4 A Yes.

5 q And at line 14 Defendant Blagojevich says:

6

7 "So let's analyze that. So tomorrow
8 morning, I would call, I mean, first, I
9 should call Axelrod and congratulate him,
10 shouldn't I?"

11 And what did you understand him to be saying
12 there.

13 A That Wednesday morning, the day after the
14 election, the Governor would be calling David
15 Axelrod to congratulate him.

16 q And he goes on at line 21 to say:

17 "So I call him and congratulate him and
18 then do I bring the Senate thing up or let
19 him do it? I'll say, man, you guys, boy,
20 historic, that's unbelievable, you played,
21 you're in history books, congratulations,
22 you know."

23 And you respond:

24 "I think if you call to congratulate him,
25 he'll raise it if he wants to talk about

1 it."

2 What were you saying there?

3 A I was saying he should not bring up the Senate
4 seat, simply call to congratulate him and see where
5 the conversation goes.

6 Q Moving over to Page 4, starting at line 17,
7 Defendant Blagojevich says:

8 So, you know, the trick is going to be how
9 do you conduct indirectly and with a
10 certain reserve, you know, a negotiation
11 like a sports agent where you're pitting
12 one team against another, you know what I
13 mean?

14 My free agent wants to play for the
15 Cowboys, he wants to play for the Eagles.
16 Okay. How much you offering Obama? What
17 are you offering Madigan? You know what,
18 we can always go to the, we can always go
19 the 49ers with Emil, you know what I
20 mean? We can always end up there. Or
21 me."

22 What did you understand Defendant Blagojevich
23 to be saying there?

24 A He is articulating to me the way he sees this
25 negotiation unfolding using a sports metaphor with

1 the sports players, athletes, and teams kind of
2 pitting one against the other. It's what we talked
3 about earlier about having a credible alternative to
4 negotiate with or to use in negotiations.

:22PM

5 q On the next page, Page 5, the top line 1 you say:
6 "well, one way to, ah, you know, reduce the
7 value of their play, of their hand ..."
8 And Defendant Blagojevich asks:
9 "who's 'they'?"

:23PM

10 You say:
11 "The Obama camp."
12 You go on at line 7:

:23PM

13 "Just kind of ask him, what would you, what
14 would you, what would you recommend I look
15 for in a senator. Rather than get to the
16 name, get to the, let them, lock them in
17 on a list of what they want. So that
18 leaves you open to pick anybody that can
19 meet that criteria including yourself."

:23PM

20 what are you saying there?

:23PM

21 A That if he's talking to Dave Axelrod or others
22 representing Obama in these discussions, he should
23 put the question to them what criteria or what is
24 the senator looking for, meaning Senator Obama, in a
25 replacement senator, what characteristics, what

1 qualifications.

2 q At line 33 you say:

3 "It's possible I'm just saying, I just, not
4 quite sure why they need to be so
5 indirect. I mean there's so many other
6 people we have common friends."

7 what are you referring to there?

8 A I am just still puzzled as to why Andy and Tom
9 were not more direct with their agency or their
10 representation that they made.

11 q And Defendant Blagojevich responds at line 37:

12 "Because it's pretty obvious. A, Obama
13 doesn't want it getting out there he's
14 pushing somebody."

15 And what did you understand him to be saying
16 there?

17 A That they're still trying to figure out how to
18 express the preference without exposing Barack Obama
19 too much.

20 q On Page 6, starting at the end of line 15,
21 Defendant Blagojevich says:

22 "And then the other thing is, Balanoff and
23 Stern, they prefer not to have Jan and
24 some of their other allies know that
25 they're acting as, in a, in a, process

1 that could mean somebody other than them
2 get the Senate seat."

3 what did you understand Defendant Blagojevich
4 to be saying there?

:25PM

5 A He's providing his further explanation as to why
6 Andy Stern and Tom Balanoff may not have been so
7 direct, because Jan Schakowsky had apparently asked
8 them for their support with the Governor to get her
9 appointed to the vacant Senate seat, she's a friend
10 and ally of theirs, and Jan may be offended,
11 congresswoman Schakowsky might be offended if she
12 found out they were championing someone other than
13 her.

:25PM

14 Q At Page 7, starting at line 9.

:25PM

15 A Page 7?

16 Q Page 7, you say:

17 "We just want to get them a little more
18 pregnant with us. We need to force 'em to
19 be a little bit more overt. That enhances
20 our ability to negotiate, otherwise we're
21 gonna be negotiating with thin air."

:25PM

22 what were you saying there?

23 A Well, if they're not representing Obama and they
24 don't have a specific request, then they're not
25 really people that the Governor can negotiate with

:26PM

1 on the appointment.

2 q And at line 16 Defendant Blagojevich says:

3 "Right, and then how do you get this Health
4 and Human Services thing in the mix there?
5 How do we get that in the mix?"

6 what did you understand him to be saying
7 there?

8 A He wants to somehow let them know that he's
9 interested in this Cabinet appointment to the Health
10 and Human Services, and, again, I think he's still
11 working out the timing and the tactic for that
12 request.

13 q At line 19 you say:

14 "I thought the answer kinda revealed itself
15 to us yesterday with Andy Stern and Obama
16 -- I mean Andy Stern and Balanoff, they'd
17 be the perfect emissaries for something
18 like that." what did you mean?

19 A Meaning they left the meeting with us yesterday
20 saying that they would go back and confirm with
21 Obama that Valerie Jarrett was, in fact, his
22 preference and that they were asked to deliver that
23 message.

24 q At the section starting at line 25 on Page 7,
25 Defendant Blagojevich says:

1 "Yeah, I like that. When, when would you a
2 make the play? You, you wait for them to
3 come to us or we come to them or we give
4 it a little time and then see and if
5 nothing happens we make a move or what? I
6 mean, once this happens, you know, all the
7 supplicants begin the process of, you
8 know, putting their hat in the ring for
9 stuff and their supporters and others will
10 be pushing hard."

11 What did you understand him to be saying?

12 A Well, in the first part of that exchange he's
13 telling me that I believe he agrees he'll wait for
14 Tom and Andy to come back and make their request.
15 I'm not quite sure what he means in the last
16 sentence about others coming forward and putting in
17 their request, other than just generally we can
18 expect that there'll be others coming in.

19 Q On to Page 8, you say at line 1:

20 "I think you throw call into Axelrod,
21 either he raise the issue or he doesn't
22 raise the issue." And Defendant
23 Blagojevich says:

24 "Yeah, so that's tomorrow morning, right?"

25 And you say:

1 "If he doesn't raise the issue, then I call
2 him and I'm a little bit more direct.
3 Right?"

4 What are you saying there?

:28PM

5 A After he calls Dave Axelrod to congratulate him
6 on the election, wait and listen, and if he doesn't
7 express a preference for any particular candidate
8 like Valerie Jarrett, then I can call him and ask
9 him, as I explain later, whether or not they have a
10 preference or not.

:28PM

11 Q And then at line 16 Defendant Blagojevich says:

12 "This is good what you're saying. Keep
13 going." And you go on to say:

14 "And then kind of keep him in the mix the
15 whole time and then I have a talk with
16 Balanoff about the DHS, the secretary
17 position."

:29PM

18 What are you suggesting there?

19 A To keep Andy Stern and Tom Balanoff involved in
20 the discussions and that perhaps we ask Balanoff to
21 deliver the request for the DHS position. Actually
22 it's the Health and Human Services position.

:29PM

23 Q But here you refer to it as DHS?

24 A Yes.

:29PM

25 Q On Page 9 at line 20 you say:

1 "So we can play stupid the whole time, make
2 them be a little more direct, and once
3 they become more direct we make our
4 counteroffer."

5 What are you saying there?

6 A Again, we should play a wait and see -- us having
7 a wait-and-see posture, wait for them to
8 specifically request Valerie Jarrett.

9 Q Starting at line 25 Defendant Blagojevich says:

10 "I need a timeline and I don't believe
11 November 17 is anything I need to be
12 careful, you know, mindful of, that's just
13 way too soon, and this Delaware stuff I
14 don't think matters."

15 What did you understand him to be saying?

16 A He was asking me to think about a timeline of
17 when he needs to make a decision by in terms of who
18 he has selected to fill the vacant Senate seat.
19 November 17th is the date we understood Barack Obama
20 would be stepping down from his Senate seat, thus
21 formally creating the vacancy and that people would
22 expect us to have a candidate identified on or about
23 that date.

24 Q And what about the reference to the Delaware
25 stuff?

1 A Well, Joe Biden was the senator from Delaware and
2 would have been elected with Barack Obama on the
3 same ticket as Vice President, thus creating a
4 vacancy in the Delaware Senate seat and it seemed in
5 press reports they were moving very quickly to
6 identify the replacement for Joe Biden. In fact, I
7 think they may even had a name that was being
8 discussed publicly by their Governor.

9 Q And starting at line 30 you say:

10 "I think, you know, the real timeline is
11 between December 15th and December 25th."
12 What were you saying?

13 A I was telling the Governor what I thought to be
14 the outer limit of his time frame to make a
15 decision.

16 Q Moving forward, I'd like to move forward to
17 Page 11, please.

18 At line 5 Defendant Blagojevich says:

19
20 "We, you know, then we gotta figure out the
21 Madigan play if there is one, right?"

22 You say:

23 "Right."

24 And he says:

25 "We've got Emil as a fallback but not a

1 very inspiring thought, the best he can do
2 for me is raise money for me. There's not
3 much more he can do right."

4 what did you understand Defendant Blagojevich
5 was referring to when he says "we gotta figure out
6 the Madigan play if there is one"?

7 A He is telling me that he wants to sit down and
8 have a discussion with myself and others about
9 whether or not we should even try to pursue a
10 Madigan play or not in these discussions and these
11 deliberations.

12 q At line 12 you say:

13 "I was gonna go see DeLeo later this
14 afternoon out at his neck of the woods in
15 his ward office. Should we start feeling
16 him out about feeling Madigan out."

17 Who is DeLeo?

18 A State Senator Jim DeLeo who was an ally of the
19 Governor's, a long-time State Senator, held one of
20 the leader positions in the state Senate, somebody
21 who would be a likely candidate to facilitate a
22 negotiation with Speaker Madigan. They've been
23 serving at Springfield for several decades together.

24 q And, Mr. Harris, I failed to ask you, I read it
25 but I didn't ask you what you meant at lines 8

1 through 11 on the Page 11.

2 A Those were the Governor's --

3 q I'm sorry. I'm sorry. Let me ask a different
4 question.

5 At lines 8 through 11 Defendant Blagojevich
6 says:

7 "We've got Emil as a fallback but not a
8 very inspiring thought, the best he can do
9 for me is raise money for me. There's not
10 much more he can do right.

11 what did you understand he meant by that?

12 A well, the only list that really was being
13 considered at this time was himself, Emil Jones, or
14 Valerie Jarrett if in fact she was being asked for
15 by the President.

16 q All right.

17 You explained your suggestion regarding State
18 Senator DeLeo. In response at line 17 Defendant
19 Blagojevich says:

20 "No, I don't think so yet. I don't want to
21 talk about it -- I want to talk about it.
22 Let's think about it. What time you gonna
23 see DeLeo?"

24 what did you understand him to be saying?

25 A That he was not ready to open that possibility up

1 for discussions beyond the few that he talked about
2 with it and told me not to mention anything or not
3 to ask DeLeo to do anything in that regard.

4 Q And when you say "in that regard," what are you
5 referring to?

6 A Meaning not ask Senator De Leo to fill out
7 Speaker Madigan about his interest in putting
8 together some sort of deal.

9 Q At line 23 Defendant Blagojevich says:

10 "You'd want him to go to Madigan, huh, not
11 Jay?" what did you understand him to be
12 saying there?

13 A He was asking me my opinion as to who might be a
14 better emissary or a better spokesperson with the
15 Governor with Speaker Madigan, Senator Jim DeLeo or
16 State Representative Jay Hoffman who was a
17 representative in the House, served under Speaker
18 Madigan, was the Governor's kind of unofficial
19 legislative floor leader in the House, strong ally
20 of the Governor's.

21 Q And you respond:

22 Not Jay."

23 And Defendant Blagojevich said at line 26:

24 "I agree with you."

25 And he goes on at line 28:

1 "Negotiating with Madigan and suggesting
2 his daughter, and then can't make a deal
3 with him that I'm going to be satisfied
4 with, right?"

5 what did you understand him to be saying at
6 lines 28 through 31?

7 A I understood him to be saying that it was
8 unlikely that we would be able to negotiate a deal
9 with Speaker Madigan, one that would satisfy the
10 Governor, and again this would open up the option or
11 make the option of appointing himself politically
12 more feasible and more likely.

13 Q All right. And is that what you then understood
14 him to be saying at Page 12, lines 1 to 2 when he
15 says:

16 "Then I end up using my ace in the hole and
17 I send myself"?

18 A Yes, I think the discussions regarding Lisa
19 Madigan's appointment were always somewhat of a
20 prelude or a condition precedent to the Governor
21 appointing himself, the start of those discussions
22 and the breakdown of those discussions.

23 Q And starting at line 4 Defendant Blagojevich
24 says:

25 "Among the reasons I ended up having to

1 fall back on this position was I couldn't
2 get the Democratic Speaker and party
3 chairman to agree that if I send his
4 daughter to the U.S. Senate, all he had to
5 do in exchange for that was to provide
6 healthcare, pass the healthcare plan that
7 Omaha supports, a job plan that Obama
8 supports, and balance the budget without
9 raising taxes on people which is what
10 Obama was elected on, right?"

11 what did you understand him to be saying
12 there?

13 A I understood him to be articulating a possible
14 future speech he would give that would coincide with
15 him appointing himself as senator.

16 q At line 18 you say:

17 "we may have to take the high-risk strategy
18 and maybe if no one is coming to us we
19 throw your name out there."

20 what are you saying there?

21 A I was just suggesting that we might want to start
22 moving forward on the Speaker Madigan suggestion
23 sooner rather than later.

24 q And at line 22 Defendant Blagojevich says:

25 "I wouldn't say that. No, I don't -- I

1 don't do that. I mean --"

2 and it goes on at line 25:

3 ".... you could have all kinds of

4 editorials just f'ing pissin' on that."

:38PM

5 what did you understand him to be saying?

6 A That he wasn't ready to discuss publicly or even
7 suggest publicly that he was considering his own
8 appointment.

9 Q And then at line 30 he says:

:38PM

10 "I'm worried about them doing it if there's
11 a delay, you know? We gotta think about
12 what we say about that."

13 what did you understand him to be saying?

:38PM

14 A I think he was worried that the longer he delayed
15 making an appointment and the longer that -- that
16 time period was dark or we had nothing to say about
17 the process or who's being considered and we weren't
18 speaking publicly about candidates or potential
19 candidates, that the media might begin to wonder was
20 the Governor really looking at potential candidates
21 or was he just waiting to appoint himself at some
22 later date.

:39PM

23 Q At line 34 you say:

:39PM

24 You know, we're just in discussion with,
25 we're in discussions with several

1 interested parties."

2 what are you saying there?

3 A Well, I agree that we have to say something
4 otherwise people will come up with their own
5 explanation for the delay.

6 q So was this your suggestion as to what might be
7 able to be said publicly about the delay?

8 A It was the only thing that I thought we could
9 say.

10 q And at line 23 Defendant Blagojevich says:

11 "There's opportunity here. Now I want you
12 to think about, you know, look, I'm gonna
13 offer in good faith to make a good, a
14 decision for U.S. Senator but it, it, it
15 is not coming for free. It's gonna come,
16 it's gotta be good stuff for the people of
17 Illinois and good for me. That's what I'm
18 looking at."

19 what did you understand him to be saying
20 there?

21 A That he wanted to get the most out of this
22 appointment as possible.

23 q And based upon what he said, did you believe that
24 getting the most out of it included him getting
25 something for himself?

1 A Yes.

2 Q On Page 14 starting at line 1 Defendant
3 Blagojevich says:

4 "And if I can't get the right deal, John,
5 then I'll take it myself. That's kinda
6 where I'm at. And that'll make me
7 negotiate better and get a better deal.
8 What do you think of that?"

9 What did you understand him to be saying
10 there?

11 A Well, that he wanted a good deal for himself,
12 something as good or better than him appointing
13 himself senator, and that having that option
14 available to him would enable him to hold out for
15 something as good or better than making himself
16 senator.

17 Q And you respond starting at line 6 by saying:
18 "Right. Right. And I think just publicly,
19 we gotta make sure we're always talking
20 about best interests of the state, best
21 interests of the state."

22 The he says:

23 "Right."

24 And you say:

25 "Best interests of the state.

1 And at line 14 you say:

2 "That's kind of the mantra."

3 what are you saying there?

4 A I was basically trying to reinforce to him that
5 when he's speaking publicly on this subject, he
6 should always speak about the best interest of the
7 state and the people of Illinois and not ever
8 suggest that he's looking out for what's best for
9 them and what's best for him as well.

10 q And he responds at line 15:

11 "Best interest of the state and somebody
12 who can do the most good for the state and
13 for the people of Illinois, most good for
14 the people of Illinois."

15 And you say at line 19:

16 "Right. Not the most good for Barack, not
17 the most good for you."

18 what did you understand Defendant Blagojevich
19 was saying at lines 15 through 18?

20 A He was rehearsing what his talking point would be
21 and how he would always refer to this, his selection
22 process and his criteria.

23 q when you say talking point would be, is that your
24 understanding that he was rehearsing what he would
25 say publicly?

1 A Yes.

2 q And you say:

3 "Not the most good for Barack, not the most
4 good for you, first and foremost the most
5 good for the people of Illinois."

6 And, there, are you still talking about the
7 public mantra?

8 A Yes.

9 q And at line 24 Defendant Blagojevich responds:

10 "Right. But you agree, the way I'm gonna
11 negotiate this one is, I've always got the
12 fallback as long as I cover, you know, I'm
13 not removed, hence Emil's important. You
14 wanna go to this thing with me tonight?"

15 when he says, I've always got the fallback as
16 long as I cover, you know, I'm not removed, hence
17 Emil's important" what did you understand him to be
18 saying?

19 A That his fallback was always naming himself
20 senator if he can negotiate a deal to his
21 satisfaction, but Emil was important to protect that
22 option because the legislature could take away his
23 power to appoint a senator, if they chose to, and
24 Emil would be important to block any effort by the
25 General Assembly to trip him of the power to fill

1 the vacancy.

2 q Then he says:

3 "You wanna go to this thing tonight."

4 what was he asking you?

5 A To the victory rally.

6 q And you say:

7 "No, not really, I was gonna to watch it
8 with the kids."

9 So what were you saying?

10 A That I'd rather not attend with him that evening.

11 q And then on Page 15, starting line 3 he says:

12 "Yeah, yeah, don't worry about it. So, uh,
13 yeah, I mean that, you know, that's, you
14 know, Obama you want it, fine, it's gotta
15 be good otherwise I'm, you know, I could
16 always take it. You know what I'm
17 saying?"

18 what did you understand him to be saying?

19 A His state of mind at the time and about how he
20 viewed this.

21 MS. HAMILTON: Your Honor, at this time I
22 would ask permission to publish call session 180
23 which corresponds to the transcript behind tab 14 in
24 Transcript Binder 1.

25 THE COURT: Yes.

1 (Tape played).

2 MS. HAMILTON: Your Honor, I now ask
3 permission to publish the next session 186 that
4 corresponds to the transcript at tab 15.

5 THE COURT: Yes.

6 (Tape played).

7 MS. HAMILTON: The next call in the binder is
8 session 193 and it corresponds to the transcript
9 behind tab 16.

10 THE COURT: You may.

11 MS. HAMILTON: Thank you.

12 (Tape played)

13 BY MS. HAMILTON:

14 Q Mr. Harris, I want to focus your attention at
15 Page 1 of the transcript behind tab 16.

16 The call is on November the 4th, 2008, at
17 10:43 a.m., is that right?

18 A Yes.

19 Q Now, at line 6 you say:

20 "What time you thinking of going tonight?"

21 What are you asking?

22 A What time he was going to Grant Park for the
23 victory celebration.

24 Q And at line 10 Defendant Blagojevich says:

25 "I think around 8:00 or so, I got to call

1 Jeannie, find out when that is."

2 And you say:

3 "Okay. You still want company?"

4 What are you asking?

:51PM

5 A whether he would still want me to attend.

6 Q And he says:

7 "Yeah, you wanna go?"

8 And you say:

9 "Yeah, I'll go."

:51PM

10 And then at line 15 he asks you:

11 "How come?"

12 And at line 16 you say:

13 "Figure just, you know, just kinda keep him
14 feeling warm and fuzzy, you know."

:51PM

15 What are you saying there?

16 A That I'd go with him and I'd probably hang back
17 at Emil Jones' party if the Governor needed to go do
18 TV interviews or other news interviews. And I also
19 told him that because one of the other reasons that
20 I wanted to go is Bill Quinlan asked me to go
21 because he was going to take his wife and they
22 wanted to be able to enjoy the festivities and if I
23 wasn't there then Bill would have to stay with the
24 Governor all night.

:52PM

25 Q So when you say "keep him feeling warm and fuzzy"

1 who is the "him"?

2 A Emil Jones.

3 Q And what is it about -- when you say "keep him
4 feeling warm and fuzzy," what did you mean?

5 A Well, Emil and I enjoyed what I believed to be a
6 good relationship and my presence at his party most
7 of the night would offset some of the cool feelings
8 that had been between the Governor and him still
9 lingering from the override of the ethics bill veto.

10 Q Moving forward to Page 2, at line 18, Defendant
11 Blagojevich says:

12 "I'm glad you called 'cause I was gonna
13 call you. So last night I'm on the phone
14 with Greenlee and yu know the Tribune
15 editorial, when they endorsed Madigan?"

16 And he goes on to say:

17 "They throw in a line saying now it's time
18 for a committee to look into impeaching
19 the governor."

20 what id you understand he was saying to you?

21 A He was relaying to me a conversation he had with
22 Bob Greenlee about a recent editorial that was
23 critical of the Governor by way of endorsing Speaker
24 Madigan for reelection, because all the House seats
25 were up for reelection on that November 4th as well,

1 and that in the endorsement editorial they called
2 upon the Speaker to put together a committee to
3 investigate the Governor for a possible impeachment.

4 Q And you said at line 33:

5 "Well, like I said, the Tribune want you
6 out of the way."

7 What did you mean?

8 A I agreed with him that the Tribune was, in fact,
9 by any means possible pushing to get him out of
10 office. Earlier in the summer it was their strong
11 endorsement of a recall measure that failed in the
12 General Assembly.

13 Q Was that what you were referring to on page 3,
14 line 2 when they said they were real big on the
15 recall?

16 A Yes.

17 Q And, generally, what was the recall?

18 A It would've been a bill if passed that would have
19 put a question on the ballot on November 4th for all
20 of Illinois voters to choose whether or not they
21 wanted the power to recall a sitting Governor; in
22 other words, call for a vote of confidence or a
23 special election.

24 We opposed that legislation because it
25 singled out the Governor's Office, it didn't include

1 other offices of other elected officials and we just
2 thought it was bad public policy and we successfully
3 beat that back over the Tribune's strong crusade for
4 it.

5 q Starting at line 9 Defendant Blagojevich says:

6 "I think we have to have a conversation
7 with nil's and Crane Kenny and maybe Sam
8 Zell. And say, you know what, uh, uh, you
9 know, the governor takes, gets his ass
10 kicked from your f'ing paper, wrongfully.
11 They've got a f'ing extreme agenda on 'em.
12 We never complain. We go with the flow,
13 okay. But now you're in a position here
14 where they're gonna be advocating an
15 impeachment because the governor finds
16 ways around the Legislature to get things
17 done like he's doing this Cubs deal with
18 the IFA."

19 At this time in early November of 2008, were
20 you and others in the office of the Governor working
21 on a deal involving the Cubs in Wrigley Field?

22 A Yes, we had been for about a year and a half.

23 q And, generally, how did the State's involvement
24 in a possible deal with the Cubs and Wrigley Field
25 come about?

1 A About a year and a half prior to this
2 conversation, Sam Zell, a local real estate investor
3 and business magnate acquired the Tribune
4 organization. And the Tribune organization, as a
5 corporation, owns Wrigley Field and the Chicago the
6 Cubs organization as one of its subsidiaries like
7 WGN and other radio stations and TV stations, as
8 well as the Cubs.

9 Sam Zell had made some public remarks about
10 possibly selling off assets of the Tribune
11 Corporation, including the Cubs and Wrigley Field.
12 That necessarily would put the Cubs in play for
13 relocation out of Chicago, out of Wrigley Field, to
14 either some suburb or out of the State entirely.

15 And the Governor had asked myself and other
16 members of his staff to look at things that we could
17 do as a State to make sure the Cubs can never leave
18 or not leave for their foreseeable future.

19 Q And you said there were others within the office
20 of the Governor who you worked on this. Who else
21 did you work with?

22 A I worked with legal staff, as well as John Filan
23 and Bob Greenlee.

24 Q And were there people within the Tribune Company
25 whom you worked with?

1 A Yes, there was others, an initial meeting between
2 the Governor's team on this and the Tribune
3 organization.

4 The Governor met with Sam Zell briefly on one
5 occasion, talked about the Governor's desire to help
6 keep the Cubs here by some State involvement to
7 facilitate the sale of the Cubs and/or Wrigley
8 Field, there was follow-up meetings scheduled.

9 The team from the Tribune included Crane
10 Kenny, who was the general counsel of the Chicago
11 Tribune Corporation and also oversaw the Cubs
12 operation for the Tribune Company.

13 There was Nils Larson, who was a consultant
14 for Sam Zell, and there was some sports facility
15 consultants, one of whom was Marc Ganis, and other
16 lawyers and accountants.

17 Q Now, early in the process did you and others try
18 to work out a deal involving something known as the
19 Illinois Sports Facility Authority?

20 A Yes, that was the first model we looked at, a
21 variation of what the State had done in the '90s to
22 keep the Chicago White Sox in Chicago.

23 The State Legislature created an entity
24 called the Illinois Sports Facility Authority which
25 would -- actually it was before the '90s, but which

1 would own and operate sports facilities and lease
2 them to the teams.

3 The Illinois Sports Facility Authority was
4 authorized by State statute to collect revenues from
5 the hotel tax that was imposed in the Chicago
6 metropolitan area and those monies will be used to
7 build a new stadium. They were, in fact, used to
8 provide a public subsidy for the redevelopment of
9 Comiskey Park into Sox Park.

10 Later on that same agency, Sports Facility
11 Authority was involved in the refurbishment and
12 renovation of Soldier Field to keep the Bears in
13 Chicago.

14 So we were looking at an ISFA or Illinois
15 Sports Facility Authority model that would take
16 ownership of Wrigley Field. The Cubs team would've
17 enter into a long-term lease with the new stadium
18 owners, and there would be a public private
19 investment in the restoration and refurbishment of
20 Wrigley Field thus guaranteeing a long-term presence
21 of the Cubs in Chicago.

22 Q Did a deal involving the Illinois Sports Facility
23 Authority and Wrigley Field ever happen?

24 A No; it became clear after about a year of effort,
25 analysis and negotiations, that getting the Illinois

1 General Assembly to pass legislation that would
2 facilitate one of the revenue streams that we were
3 talking about, which was a sales tax increment for
4 increase sales above a baseline year that would
5 occur at Wrigley Field, that's just one of the
6 revenue sources that would come in, to help match
7 private dollars with the new team owners to rebuild
8 the stadium. It was something that would have
9 ultimately required legislative approval which we
10 were doubtful we would be able to get given the
11 climate in Springfield, so we moved on to plan B.

12 Q And, generally, what was plan B?

13 A Plan B was to use the Illinois Finance Authority,
14 which was an entity created long ago to facilitate
15 the issuance of debt to fund economic development,
16 industrial, and agricultural products throughout the
17 state. In other words, it gave developers private
18 business interests access to borrow money at the
19 rates states would pay, which tend to be lower than
20 commercial rates, and provide some sort of guarantee
21 so it would be easier for the entity, be it the
22 business entity or the economic development project,
23 to happen.

24 So we were pursuing with the Cubs
25 organization or the Tribune organization a plan to

1 use the IFA and we had made some progress on that
2 front. And the first public meeting that would've
3 first revealed the State's involvement in a
4 transaction involving the sale of the Cubs and the
5 stadium would have occurred on or about
6 November 12th through an inducement ordinance.

7 q Okay. So as of the time of this call on November
8 the 4th, a possible deal involving the Illinois
9 Finance Authority was still under way?

10 A Yes.

11 q So at lines 9 through 21 what did you understand
12 Defendant Blagojevich to be saying to you?

13 A What I understood him to be saying to me was to
14 get in touch with the Tribune organization, either
15 Sam Zell or Sam Zell's people, and let them know
16 that we would not be going forward with our
17 involvement in the sale of the Cubs and Wrigley
18 Field and we would not be providing our assistance
19 if they continued to beat up the Governor on the
20 editorial page.

21 q At line 23 you respond:

22 "Yeah, that's more of a Nils' conversation,
23 not Sam Zell."

24 What are you saying there?

25 A After I heard the Governor, I was concerned that

1 he might call Sam Zell directly and that the
2 conversation could deteriorate into full-blown
3 threat and I asked him to -- well, I suggested Nils
4 be the person we speak to and that is someone I knew
5 the Governor wouldn't talk to, that he would leave
6 the conversation with Nils to someone like myself
7 because he was just a consultant but an advisor to
8 Zell.

9 Q Meaning Nils was?

10 A Yes.

11 Q Starting at line 27, Defendant Blagojevich says:

12 "Right. And, you know, you know what,
13 because this impeachment thing that your
14 paper is pushing could very well be a
15 cloud that hangs over our head and could
16 actually be out there as I try to Governor
17 in the next session driven by your
18 newspaper and by Madigan. We don't know
19 if we can take a chance and do this IFA
20 deal now. I don't want to give them
21 grounds to impeach me."

22 what did you understand him to be saying
23 there?

24 A Well, he was articulating why he would not want
25 to go forward, because going forward with the deal

1 could provide further ammunition to his opponents,
2 create additional grounds for impeachment, like the
3 grounds that the Tribune had previously cited, but
4 he was explaining to me that this was a real problem
5 for him and he wanted them to get the message.

:05PM

6 q And when you say he wanted them to get the
7 message, what was the message you understood he
8 wanted them to get?

9 A Stop or else.

:05PM

10 q And when you say stop or else, stop what?

11 A Stop with the bad editorials or else we won't go
12 forward with this.

13 q And at line like 37 you say:

14 "Right, well the IFA is going to take up
15 the inducement ordinance on November the
16 12th."

:05PM

17 was that a reference to what you already
18 testified about?

19 A Yes.

:05PM

20 q On Page 4 Defendant Blagojevich responds at line
21 1:

22 "I know this conversation with them later
23 this week."

24 what did you understand him to be saying?

:05PM

25 A That he wanted me to have the conversation before

1 the end of the week because November the 12th was
2 just around the corner.

3 q And starting at line 4 he says:

4 "And awe got all these op-eds and, and
5 then, so therefore we got to figure this
6 out. And our recommendation is fire all
7 those f'ing people. Get 'em the f' out of
8 there and get us some editorial support."

9 what did you understand him to be saying
10 there?

11 A what he wanted.

12 q And what is it that he wanted?

13 A A new editorial board.

14 q At lines 13 he says:

15 "So yeah, get us some editorial support.
16 So I want you to think through this. This
17 is important. You follow me?"

18 You say:

19 "Got it."

20 what did you understand him to be saying to
21 you?

22 A Go get this done.

23 q And, Mr. Harris, you referred to the editorial
24 board. what is an editorial board?

25 A I'm not very familiar with who comprises the

1 board, but it's made of journalists and other
2 editors at a newspaper that expresses the opinion of
3 the newspaper on various topics of social interests
4 and public interests.

:07PM

5 MS. HAMILTON: Your Honor, at this time I ask
6 permission to publish the call session 198 and 200
7 which correspond to the transcript behind tab 17.

8 THE COURT: Sure, but not right now
9 fifteen minutes.

:07PM

10 (The following proceedings were had out of
11 the presence of the jury in open court:)

12 THE COURT: You may be seated in the
13 courtroom.

14 Counsel, come to the lectern.

:08PM

15 You can step down.

16 I have preliminarily read the motion for a
17 mistrial. I don't know if I have ever seen a motion
18 for mistrial based on scope objections and erroneous
19 rulings and the reason I raise that is because that
20 whatever you think has been done wrong, there's
21 plenty of time to repair it. And, generally
22 speaking, it's not a good idea, at least here, to
23 over-ask on the theory you might get something less.

:09PM

24 with that in mind, I would be perfectly
25 willing to consider a specific list of questions

:09PM

1 that you think I should not have sustained the
2 objection to. And if you feel it's appropriate, I
3 can allow you to ask the witnesses to come back
4 here. It'll also give the government a chance to
5 respond.

6 There are a couple of things that reflect a
7 misunderstanding of the nature of my rulings and I
8 think it's fairly important that the
9 misunderstanding goes away so I don't have to
10 continue with this.

11 The general tenor of the motion begins with
12 some general statements about "the greatest legal
13 engine ever invented for the discovery of wigmore."
14 I need probably objections phrased at a higher level
15 of specificity than wigmore's general statement.
16 Although, it did remind me that when I started as a
17 prosecutor, whatever improper question you would
18 ask--and prosecutors did this as well as defense
19 lawyers--and the other guy stood up and objected,
20 you would always say to the judge, "but, judge, this
21 is cross-examination" as if that meant anything
22 could be asked. And sometimes, at least in the
23 courthouse where I started my own career, it worked,
24 but it's not really going to work here.

25 But I'll give you an example of what my

1 concern is, and they are unnumbered pages but it's
2 toward the end:

3 "... Yet, defense counsel has been
4 prevented from asking questions in the
5 same vein. On June 15th, in the cross of
6 Monk, questions about why Monk,
7 Blagojevich and his wife allegedly met
8 with a lawyer "to make sure it was legal"
9 was objected to and sustained."

:12PM 10 This brings up my problem that I had with
11 what I regard as mind-reading questions and also
12 raises particularly a hearsay problem. Under
13 certain circumstances, the way the question could
14 have been asked is, "what conversation occurred
:12PM 15 before you went into the lawyer's office," suppose
16 the answer was, "Blagojevich said something like we
17 want to talk to this lawyer and we want to do
18 exactly what the lawyer says." It is not evidence
19 here and presumably not said so you can treat this
:13PM 20 as a hypothetical. Then you might be able to ask
21 Monk the question, "what did you understand the
22 Defendant Blagojevich to be saying," now that would
23 be a question that has a reasonable basis.

24 There's another objection to that of hearsay
:13PM 25 that might be sustained, but that question could've

1 been asked. And interestingly enough, I accept the
2 good faith of your filing this motion except maybe
3 for the remedy you asked because the Government just
4 violated this rule and you didn't object, because
5 the prosecutor kept saying, perfectly correctly,
6 about what the Defendant Blagojevich said, "what did
7 you understand him to say," but she crossed the line
8 at least once when she said "what did you mean." I
9 would have sustained an objection to that question.
10 No objection was made.

11 And the reason I think no objection was made
12 is that you might be under the impression that that
13 is a proper question. It isn't. That's the
14 mind-reader objection.

15 what you can ask a witness is what he
16 understood the person to be saying. And if
17 something is ambiguous, you would have every right
18 to challenge it, although the way you can challenge
19 it, as has been said in opening statement, is to
20 call Defendant Blagojevich to the stand and get his
21 explanation.

22 And from reading this transcript, there are
23 at least some places where you might have an
24 alternative explanation of what he meant, and that's
25 basically the questions you are going to ask him

1 because you don't face the mind-reading objection,
2 and that's where those things should arise.

3 Another point about scope objections, and I'm
4 perfectly willing to concede in the course of a
5 trial that covers a long time, I might think
6 something was outside the scope when arguably it
7 wasn't, which is why I reiterate that you can always
8 recall the witness for the things that you think are
9 important.

10 Another set of rulings I've made, there are
11 brief objections based on scope and I sustained
12 them, but my grounds for sustaining them was less
13 stoke and more the fact that you were, in fact,
14 using this person as your witness without calling
15 them as your witness.

16 Generally speaking, it's in the interest of
17 every counsel for the defense to try to present as
18 much evidence in favor of your client as you can
19 during the prosecution's case. What frequently
20 stops you is the scope, but if you think you can
21 show me on a question-by-question basis where you
22 think I held the reigns too tight, that's fine, we
23 can repair it. The trial has quite a ways to go.

24 Lastly, there is, I guess, an impression that
25 it is beyond the power of a judge to end

1 cross-examination when a lawyer is going beyond a
2 reasonable scope of that cross-examination. It is
3 not beyond my authority, and the reason it's not
4 beyond my authority is if I didn't have that
5 authority, a lawyer could continually ask questions
6 against my rulings and do so with impunity. So I do
7 have the right to stop and I will stop if I sustain
8 a series of objections to precisely the same kind of
9 questions, and I'm talking about repetitive, and the
10 lawyer is not switching to another subject, because
11 I come to believe that under those circumstances the
12 lawyer has nothing else to say or is unwilling to
13 abide by the rules. And it will happen again if
14 conduct of counsel justifies it.

15 There's also the reference to two kinds of
16 rulings I've made, one is is the comment that
17 there's a discrete set of charges against your
18 client and sometimes you're getting off base. The
19 reason that I sustain many of those objections,
20 though I have not sustained all of them, is that
21 that kind of questioning has a serious potential to
22 violate Rule 403 in terms of misleading. If you
23 basically plead your case that the defendant may --
24 and this was, I guess, part of the reason there was
25 a motion in limine about defending on the grounds

1 that the Governor did some good things, and that is
2 that you may confuse the jury about what is actually
3 charged, present an elaborate case showing that the
4 defendant is not guilty of something that was not
5 charged. And the reason that's a problem is, it
6 could lead the jury to think what you waged a
7 successful defense on was in fact the offense
8 charged. It usually does not happen, but there is a
9 serious risk in many cases that it might confuse the
10 jury. And, in any event, if it doesn't confuse the
11 jury, it doesn't help the defense. All it does is
12 prolong the case which leads to another factor in
13 violating Rule 403 which is a waste of time.

14 Then there is reference to my comments to one
15 defense counsel that if the jury does not understand
16 what his position is, and I stated his position and
17 he agreed that his position was as I stated it, I
18 said if this jury doesn't understand this now, then
19 you ought to abandon all hope. I use the "abandon
20 all hope" rather than "if the jury doesn't get it
21 now, they never will," because I was undoubtedly
22 deeply influenced by Dante in my early youth. In
23 fact, I believe that that is not prejudicial to the
24 defense because I quite clearly stated precisely
25 what their position is in a way that I thought

1 defense counsel was unable to do because he was
2 asked to ask questions and not make arguments, so I
3 made his arguments for him and I saved him and his
4 client from what might be a level of resentment by a
5 jury who could well feel that repetitive
6 cross-examination is an act of disrespect toward
7 them. And if I believe this is occurring again, I
8 will make similar admonitions because I believe it
9 is in interest of justice that I do so.

10 So these are my remarks on some of the things
11 you said. On others, I may very well have sustained
12 an objection that I shouldn't have sustained, I may
13 have well overruled an objection that I shouldn't
14 have overruled, and you can take a look, list them
15 one by one, and all of those things can be repaired.
16 I think many of them arise from the heat of trial,
17 but some of them may be and these can be repaired.

18 This is, in essence, a plea for fewer omnibus
19 universal remedy motions and more tightly targeted
20 ones dealing with things that you think unfairly
21 damaged you which I can correct.

22 So with that admonition, you can take the
23 four or five minutes that are left of this recess
24 and sit in your chairs.

25 (Recess.)

1 THE MARSHAL: All rise.

2 (The following proceedings were had in the
3 presence of the jury in open court:)

4 THE COURT: Please be seated.

5 MS. HAMILTON: Judge, as I requested before
6 the break, I was wanting to publish sessions 198,
7 200 that correspond to the transcript behind tab 17.
8 (Tape played).

9

10 BY MS. HAMILTON:

11 q Mr. Harris, I want to focus your attention on the
12 evening of November the 4th, 2008, what did you end
13 up doing a night?

14 A Accompanying the Governor to the victory rally at
15 Grant Park in downtown Chicago.

16 q while you were there, did you see anyone in
17 relation to the Senate seat discussions that we've
18 gone through so far?

19 A As we were walking on one of the paths behind the
20 main stage the Governor encountered and had a brief
21 conversation with Tom Balanoff, the gentleman who
22 had visited us on Monday before the election.

23 q At some point after that did Defendant
24 Blagojevich tell you what Mr. Balanoff had said when
25 he saw him that evening?

1 A Yes.

2 q what did he tell you?

3 A He told me that Tom Balanoff met with Obama and
4 Obama wanted Valerie Jarrett and he wanted to come
5 see the Governor and talk to him in more detail.

6 q who wanted to come see the Governor and talk to
7 him in more detail?

8 A Tom Balanoff.

9 q Was a meeting then arranged between Defendant
10 Blagojevich and Tom Balanoff?

11 A It took some time to get the meeting together,
12 but yes.

13 q When was it scheduled to happen?

14 A I believe it was scheduled to happen on the 6th.

15 q Before the scheduled meeting with Tom Balanoff on
16 November the 6th, did you have discussions with
17 Defendant Blagojevich in preparation for that
18 meeting?

19 A Yes.

20 q Were those conversations over the phone?

21 A Yes, and I think in person as well, I believe.

22 q For the conversations that were over the phone,
23 have you heard recordings of those conversations?

24 A Yes.

25 MS. HAMILTON: Your Honor, at this time I'd

1 ask permission to publish call session 261, which
2 the transcript is behind tab 21.

3 THE COURT: I remember this one. Yes.

4 BY MS. HAMILTON:

5 q And, Mr. Harris, just quickly, the transcript
6 reflects this is at 8:31 in morning, is that right?

7 A Yes.

8 q So this is the morning after the election?

9 A Yes.

10 (Tape played).

11 BY MS. HAMILTON:

12 q Mr. Harris, I want to direct your attention to
13 Page 1 of the transcript behind tab 21.

14 Are you there?

15 A Yes.

16 q Directing your attention to line 5 Defendant
17 Blagojevich says:

18 "You're not sure that Rahm's going to be
19 Chief of Staff, you just think you saw
20 that, right?" what did you understand him
21 to be asking you?

22 A He's asking me what I heard about Rahm Emanuel
23 being selected to be the Chief of Staff for Barack
24 Obama at the White House.

25 q You respond:

1 "They announced it this morning, I don't
2 know how accurate it is."

3 You go on to say:

4 "BBM radio."

5 What were you relaying?

6 A That that's where I first heard it.

7 Q Moving over to Page 2, starting at line 18,
8 Defendant Blagojevich says:

9 "And I gotta set, we gotta set, we gotta
10 set a congressional election. Ya gotta
11 set, the governor sets that too."

12 And at line 22:

13 "Ya gotta set a, the governor sets the
14 congressional schedule for the special
15 election. In other words the
16 congressional seat here. It's gotta be a
17 special election."

18 What did you understand he was saying
19 there?

20 A In the event the rumor was true that Rahm Emanuel
21 was going to become the white House Chief of Staff,
22 that would create a vacancy in his congressional
23 district because Rahm was currently the congressman
24 from the fifth congressional district in Chicago and
25 under the Illinois constitution -- I'm sorry, the

1 U.S. Constitution, vacancies in the U.S. Congress or
2 U.S. House of representatives are filled by special
3 elections set by state authorities, in this case the
4 Governor would have to set a date for a special
5 election.

:11PM

6 q Okay. And that was different than the process
7 for filling the vacant Senate seat?

8 A Yes.

9 q I'd like to move forward to page 5, please, and
10 direct your attention to starting at line 23,
11 Defendant Blagojevich says:

:11PM

12 "All right, what do we do with Balanoff?

13 We wait for him to call, right?"

14 What did you understand he was saying?

:11PM

15 A He wanted to begin to war game the expected
16 meeting with Tom Balanoff.

17 q The expected meeting regarding what?

18 A Balanoff's discussion with Obama or as Balanoff
19 told the Governor the night before at the rally.

:11PM

20 q And you respond at line 25:

21 "Right. So we don't call Axelrod until we
22 meet with Balanoff."

23 What were you saying?

:12PM

24 A Well, I had wanted to -- I had expected the
25 Governor would be calling Dave Axelrod to

1 congratulate him on the election and thought if the
2 Balanoff meeting was going to happen sooner rather
3 than later, he might as well wait for the Balanoff
4 meeting, but I wasn't quite sure what time the
5 Balanoff meeting would be.

:12PM

6 q And in reference to calling Axelrod, is that a
7 reference, in part, to the conversation we heard
8 earlier today?

9 A The congratulatory call, yes.

:12PM

10 q I'm going to move forward to Page 6, please,
11 starting at line 29 you say:

12 "Yeah, I'm trying to figure out how much,
13 how much more they're willing to say from
14 the first meeting. I mean, it just be
15 like an incremental inch."

:12PM

16 what were you saying there?

17 A We're just speculating on what message Balanoff
18 was going to deliver, how strongly he would deliver
19 it, how direct he would be.

:13PM

20 q At this point what did you think?

21 A I wasn't sure how strong or direct it would be.

22 q Over on Page 7, at line 1, Defendant Blagojevich
23 says:

:13PM

24 "No, no, he was very explicit with me. 'I
25 talked to Barack about the Senate seat,

1 can I come and see you, can I do it
2 tomorrow?' I said 'sure'."
3 what did you understand he was telling you
4 there?

:13PM

5 A I believe he's telling me verbatim what Balanoff
6 told him in their brief conversation the prior
7 evening.

8 q And so you say:

9 "Okay, so he'll be ..."

:13PM

10 And at line 6 he says:

11 "He'll be explicit."

12 what did you understand he was saying
13 there?

:13PM

14 A That he fully expected Balanoff to be very
15 explicit about his discussions with the Obama
16 people.

17 q At line 19 Defendant Blagojevich says:

18 "How bad's he want, how important is it to
19 him? Do I say that?"

:14PM

20 what did you understand him to be saying to
21 you there?

22 A He's running ideas by me as to how he might
23 respond and what he might say during the
24 conversation at the expected meeting with Balanoff.

:14PM

25 q At line 21 you say:

1 "well, know your relationship with Balanoff
2 better than I do."

3 what are you saying there?

4 A I was telling him I couldn't provide him much of
5 an opinion in how he should dialogue with Balanoff.

6 q And he says, at line 20:

7 Yeah, don't worry about it."

8 And then line 25:

9 "It's pretty good."

10 what did you understand he was saying?

11 A That they have a pretty good relationship, "they"
12 being the Governor and Tom Balanoff.

13 q So then at line 26 you say:

14 "Yeah, and I think you can be a little more
15 blunt, right?"

16 what were you saying?

17 A That if Balanoff is being vague or circumspect,
18 the Governor can be more direct.

19 q At line 28 he says:

20 "Hold it, let's talk about this now. So do
21 I say, how bad does he want it? I don't
22 think so. Maybe I say instead, I say,
23 listen, he's the President-Elect, he
24 obviously has a lot of weight."

25 and over on to the next page:

1 "You know, with, with his interest, I, I,
2 I, I clearly, I definitely respect that,
3 and, and certainly value it. I put a
4 value, you know, I certainly, it's a
5 significant thing. However, Emil thinks
6 Obama wants him."

7 what did you understand Defendant Blagojevich
8 was saying there?

9 A He was rehearsing in his mind what he might say
10 and how he might say it to Mr. Balanoff.

11 q And you say "right, right" at line 9, and at line
12 10 Defendant Blagojevich says:

13 "That's, that's one factor, the other
14 factor is, what do I do about Mad. I'm,
15 ah, okay, I make this appointment, what do
16 I do about Madigan? We'd had overtures
17 that have been indirect, I don't know if
18 they'll, they'll get any more significant.
19 But I, I believe it's possible, so. "

20 And what did you understand Defendant
21 Blagojevich was saying in that part?

22 A Again, I think he's rehearsing what he might say
23 to Tom Balanoff, rehearsing the portion of the
24 conversation that may include raising the notion
25 that there's a Madigan opportunity out there and

1 that the Governor would be giving up that
2 opportunity in order to fulfill President-Elect's
3 wishes to appoint Valerie Jarrett.

4 Q When he says, "we've had overtures that have been
5 indirect," by this point the morning of November the
6 5th, to your knowledge had there been any overtures,
7 direct or indirect, about a possible Madigan deal?

8 A Not to my knowledge.

9 Q Moving on to Page 9, starting at line 7 Defendant
10 Blagojevich says:

11 "How am I gonna? I have to, I, my
12 responsivity is to the people of Illinois.
13 How can I best serve them and get things
14 done for them, if I've got Madigan just
15 f'ing screwing me? And the trib. Madigan
16 and the Tribune keeps screwing me, keeping
17 me from being able, and then only way I do
18 things now is going around them. And
19 that, and that's something they're talking
20 about impeaching me on."

21 "What would you do? I mean, do I not like
22 try to work something out with him and his
23 daughter? Do I say that?"

24 what did you understand Defendant Blagojevich
25 was saying to you there?

1 A Again, I think he's how he would rehearsing --

2 MR. GOLDSTEIN: Objection to what he thinks.

3 THE COURT: The objection is sustained.

4 BY MS. HAMILTON:

5 Q At the time that you were having this
6 conversation with Defendant Blagojevich, what
7 was understanding as to what he was saying at that
8 portion of the call?

9 A He was rehearsing how he might address and
10 introduce the concept of a Madigan deal as part of
11 his deliberative process.

12 Q Line 22 you say:

13 "You don't say that's the only way, you
14 just say I serious, I gotta give serious
15 consideration to that."

16 And then line 26:

17 "Given what we just laid out, right?"

18 What are you saying there?

19 A Well, I wouldn't -- I believe I was referring to
20 don't limit it to the Madigan option as your only
21 alternative.

22 Q At line 27 Defendant Blagojevich says:

23 "See, the other thing is, how do I make a
24 play for something in that end over there?

25 How do you bring that up? Do you do it

1 with Balanoff or no?"

2 what was your understanding of what
3 Defendant Blagojevich was asking you
4 there?

:18PM

5 A whether or not he should bring up to Balanoff his
6 desire to be the Secretary of Health and Human
7 Services.

8 q On Page 10 starting line 6, Defendant Blagojevich
9 says:

:19PM

10 "Do I say, look, I'd be happy to send his
11 senator there, happy to, but I'll tell you
12 what would be great, Tom, is his senator
13 and I can go to Washington and go together
14 and do All Kids all across America."

:19PM

15 And then continuing on to at line 14:

16 "Do I bring up Health and Human Services?"

17 what do you understand Defendant Blagojevich
18 to be saying at that portion of the call?

:19PM

19 A He's describing to me one way that he may pitch
20 his idea of appointing Valerie Jarrett and getting
21 appointed to the Secretary of Health and Human
22 Services out there and selling the idea together
23 with expansion of All Kids across America.

:20PM

24 q At line 16 you say:

25 "I don't know if you do that today. I

1 think the way you kind of lay that
2 groundwork is listen if, if he's not going
3 to help him in here in Illinois, I'm F and
4 I ain't gonna be able the get anything
5 else done here."

6 what are you saying there?

7 A I was saying he ought to explain to Balanoff his
8 dilemma here in Illinois, our inability to move our
9 agenda forward in Springfield and explain to him
10 those circumstances and why those circumstances are
11 something he needs help addressing and perhaps
12 President Obama can offer some help there before he
13 talks about wanting to leave Illinois.

14 q At line 22 Defendant Blagojevich says:

15 I like that. Keep going. That's good,
16 keep going."

17 what did you understand him to be saying?

18 A He seemed to like that approach better.

19 q So line 24 you say:

20 "So, you know, I will have made his
21 appointment, and he, I would've I'll, I'll
22 be left behind. You know, hobbled and
23 ineffectual, given the way the landscape
24 has changed down here. With Emil stepping
25 down."

1 What are you saying there?

2 A To take the time to really lay out an accurate
3 picture of what the Governor was facing here in
4 Illinois, that appointing Valerie and remaining
5 behind was going to be difficult for the Governor
6 because of his battles with the Speaker and the fact
7 that Emil Jones had announced his intention not to
8 seek reelection, so in the coming year Emil Jones
9 would no longer be Senate President and in a
10 position to continue to work with the Governor to
11 try to put together a coalition to get something
12 done.

13 Q Continuing on Page 11, line 1, you say:

14 "Cullerton stepping up with Madigan and you
15 know trying to weaken me so that he can
16 clear the field, for Lisa, blah, blah,
17 blah, so you guys, you know. We have more
18 work to do. How, how do we, how do we
19 accomplish, how do we take care of
20 President-Elect's wishes while at the same
21 time taking care of the people of the
22 State of Illinois."

23 What were you saying there?

24 A I was explaining to the governor how he might
25 explain again the dilemma and the difficult

1 situation he was facing here with a new Senate
2 President emerging or perhaps teaming up with
3 Madigan in trying to weaken the Governor in order to
4 create a greater opportunity for Lisa Madigan to run
5 for Governor or challenge the Governor in a primary
6 for the 2010 election for the Governor's seat and
7 again open the discussions with Balanoff about how
8 the President-Elect might be able to help the
9 Governor help the people here in Illinois.

10 q And at line 14 Defendant Blagojevich responds:

11 "Yeah. And, and, and my, and me, do I say
12 me?"

13 what did you understand that he was asking
14 you there?

15 A Beyond -- he was asking me how he introduces the
16 discussion of help beyond help governing here in
17 Illinois in helping getting things done.

18 q And what?

19 A In helping getting things done for people of
20 Illinois.

21 q And beyond helping taking care of people in
22 Illinois, what was your understanding of what he was
23 asking?

24 A He was asking helping him, and I responded by
25 saying by keeping him strong; in other words, with

1 alliance with the President, the Governor would
2 necessarily be stronger in his efforts down in
3 Springfield.

4 Q And at line 17 Defendant Blagojevich says:

5 "But I don't want that. I'm not looking
6 for that. I'd like to get out, the f'ing
7 outta here."

8 what did you understand him to be saying to
9 you there?

10 A That he didn't necessarily want to pursue that
11 line of reason or that argument or that request, the
12 request being what help can the President-Elect give
13 me to help me be a more effective Governor.

14 Q Based on what he said here, did you have an
15 understanding as to why?

16 A He didn't want to stay as Governor.

17 Q And at line 20 you say:

18 "well that's a whole different ..."

19 Line 23:

20 "... if that's the objective."

21 what were you saying there?

22 A well, if your objective is not being Governor
23 anymore, or leaving town, then why bother to ask for
24 how to get stronger here, ask for help to be
25 stronger here.

1 q And at line 24 Defendant Blagojevich says:
2 "Yeah, the objective is to, to get a good
3 gig over there."

4 what did you understand him to be saying?

5 A That he wanted an appointment to the Cabinet or
6 some other appointment that would be acceptable to
7 him.

8 q And at line 26 you say:

9 "well, then, we gotta put it on the table."

10 what have were you saying there?

11 A well, if that's what you really want, then tell
12 him.

13 q And at line 29 you say:

14 "Yeah, I mean, I'll think about it more
15 still before you come in.

16 And what are you saying there?

17 A I was just trying to buy some time and figure out
18 another way to talk to him about perhaps not being
19 so blunt or direct in his request.

20 q And when you say being so blunt in his request,
21 what do you mean?

22 A well, I wanted to understand from him perhaps
23 face to face what his real objective was, what his
24 ultimate objective was after this brief
25 conversation.

1 q And then over on Page 12, at line 1 he says:
2 "what you're you saying, you know, I'm F
3 here and all of that. Everybody's
4 getting, everybody has a chance now to
5 play a role in history, I've done all
6 these things in Illinois and I'm, now I'm
7 left behind, f'd, with this f'ing, with
8 this dynamic. And unless I do something
9 with him, and the only thing I can think
10 of is, responding to these feelers on his
11 daughter. I'm looking at two years of
12 just, crap and f'ing ineffectiveness. And
13 the very way I get things done around him
14 now is gonna be a cause of them to, to
15 impeach me, Madigan and the Tribune."

16 what did you understand he was saying there?

17 A Again, I believe he's rehearsing with me the
18 points he wants to make with Tom Balanoff, that his
19 motive for leaving is in large part his inability to
20 get things done here in Illinois and that perhaps
21 the only way he can get things done is strike a deal
22 with Madigan regarding the appointment of his
23 daughter as senator.

24 q And then at lines 24 through 33 he says:

25 "Maybe we should just have 'em there. And

1 then just say, you know, so, you know,
2 what do I do about that? What do I do
3 about that? I'm happy to, you know, I'd
4 strongly consider the President-Elect's
5 choice and be happy, and be happy to work
6 with him and do it for him. But I can't,
7 how can I do it and then leave myself i
8 this position? How am I doing?"

9 what did you understand he was saying there?

:27PM 10 A He's providing the rationale for asking for an
11 appointment for himself, a federal appointment.
12 Meaning having chosen the President-Elect's
13 preferred candidate, he still wants something for
14 himself and he would be willing to go work for
:28PM 15 President-Elect object and thinks that that would be
16 a solution that would make everyone happy or should
17 make everyone happy.

18 q Page 13 line, 11 Defendant Blagojevich says:
19 "You know, let's consider, okay, is there,
:28PM 20 is there a role for me out there, do I say
21 that?" what did you understand him to be
22 saying there?

23 A I think he's again rehearsing how he might bring
24 up the HHS position, perhaps by not mentioning a
:28PM 25 specific office but rather put it in a way of an

1 offer of assistance to the President-Elect in some
2 capacity in Washington.

3 Q And starting at line 14 you say:

4 "I think what your first before that is you
5 say, talk about the sacrifice you've made
6 personal and professional."

7 What were you suggesting there?

8 A That he ought to temper his remarks with an
9 explanation of his sincere desire to leave, and
10 what's motivating to leave, and, in essence, explain
11 why he's asking for this favor in return for the
12 favor that Barack Obama is asking for.

13 Q Line 18 Defendant Blagojevich says:

14 "Which is what?"

15 Line 20 you say:

16 "Meaning your family's situation, you know,
17 meaning, you know, your prospects your
18 political capital, blah-blah-blah, you've
19 taken hits and eroded your political
20 capital in order to take care of the have
21 nots."

22 He says:

23 "I like that."

24 What are you saying there?

25 A I'm suggesting to him how he could explain the

1 current environment, his current political standing,
2 that it had have suffered, that he had taken several
3 hits, and that he had done so on behalf of people
4 who didn't have the voice to get things done for
5 themselves, and that he sacrificed a lot and needs
6 to think of himself now as to where he was headed.

7 q And, again, was this all in the context of the
8 meeting with Balanoff that you thought was going to
9 happen?

10 A Yes.

11 q On Page 14, line 21 Defendant Blagojevich says:

12 "That's right. And if Doug's telling 'em,
13 what I'm telling Doug, that my last play
14 is I'll just send myself to Washington.
15 See? That I can send Valerie Jarrett, but
16 how, how the f', I'd like to follow her
17 and get outta town. Anything for me out
18 there? That slays to him, worst case
19 scenario, I can send me."

20 what did you understand Defendant Blagojevich
21 to be saying there?

22 A That he wanted to communicate to Balanoff so that
23 Balanoff would in turn communicate to Obama's people
24 that the Governor was seriously considering sending
25 himself, that one way or the other he was going to

1 be leaving Illinois.

2 MS. HAMILTON: Your Honor, at this time I'd
3 ask permission to publish call session 262 which is
4 at transcript tab 22 in the binder.

5 with your permission, I would like to pause
6 it where it corresponds to the transcript on Page 9,
7 line 21, ask questions about that first question
8 that would hopefully get us through the day of the
9 day and then pick up the rest tomorrow.

10 THE COURT: Hang on a second.

11 (Brief pause).

12 THE COURT: I see the shift.

13 Yes, you can.

14 MS. HAMILTON: Thank you.

15 (Tape played.)

16 BY MS. HAMILTON:

17 Q Mr. Harris, I'd like to direct your attention to
18 Page 1 behind tab 22 of the binder.

19 Are you there?

20 A Yes.

21 Q And this call is also on the morning of November
22 the 5th but at 8:58 a.m., is that right?

23 A Yes.

24 Q Is this basically a continuation of the call that
25 we heard prior to this, the transcript behind 21?

1 A I believe so.

2 q At line 3 Defendant Blagojevich says:

3 "See one thing, as, as bad as it would be
4 appointing myself and I just felt that
5 yesterday, didn't you?"

6 And he says:

7 "Did you or no?"

8 What did you understand him to be saying
9 there?

10 A He was describing to me a feeling he had about
11 how the public might react to his appointing himself
12 to the vacant Senate seat.

13 q And at line 9 he says:

14 "But the average person I don't think it
15 really, it will be the pundits, won't it?"

16 And you say:

17 "Oh, it'll be the pundits, it won't be the
18 average people."

19 What were you saying there?

20 A That the negative reaction or hostility would
21 first come from the pundits, print media, TV media,
22 radio media, chastising him or otherwise
23 characterizing him for appointing himself.

24 q And at line 14 Defendant Blagojevich says:

25 "Okay. Good. So I cannot dismiss that

1 real possibility. If they f'ing treat me
2 with f'ing, you know, irrelevance and I
3 don't get something good. I, you know,
4 and I'm facing what I'm facing. We've
5 always got that ace in the hole, don't
6 we?"

7 what did you understand him to be saying?

8 A That despite how bad it would be, the criticism
9 would be from the pundits and the average people
10 won't be as upset about it, so that's still a real
11 possibility in his mind.

12 Q And then on Page 2 you say:

13 "If they're, if they're f'ing me and
14 they're not even entertaining a reasonable
15 request."

16 And then you say:

17 "You know, the question now is what's a
18 reasonable request. And if, it's a
19 function of how important it is to him,
20 too."

21 what were you saying there?

22 A I was saying if they're not even willing to help
23 him in any way, then it is more possible, more
24 reasonable for him to appoint himself but that his
25 request to that has to be reasonable.

1 q And when you say it's a "function of how
2 important it is to him," what did you mean?

3 A Well, how much he's willing to do for you, how
4 much the President is willing to extend himself for
5 you is really a function of how much he wants
6 Valerie Jarrett to be the senator.

7 q And at line 14 you say:

8 "You know, if I were him, you know, a top
9 Cabinet post, I don't, I wouldn't consider
10 it. I wouldn't do it if I were him."

11 What were you saying?

12 A I was telling him that I didn't think the Cabinet
13 post request was reasonable, that if I were
14 President-Elect Obama I wouldn't entertain
15 appointing the Governor to a Cabinet post.

16 q And at line 18 Defendant Blagojevich says:

17 "I agree with you."

18 And at line 20 he says:

19 "Because of Rezko."

20 Line 21 you say:

21 "Because of Rezko and just because that's
22 not how I'm gonna building my team. It's
23 like the mayor, when we, whenever we
24 filled, you know, top positions in city
25 government? You know, we never let

1 political people tell us who to put
2 there."

3 what were you saying there?

4 A That yes it was in part because of the Rezko
5 taint or relationship, but also because if I were
6 advising the President or if I were the president I
7 wouldn't trade a top Cabinet position as a political
8 favor to somebody, I'd rather not do it that way, I
9 would build my team with my picks, not picks that
10 were forced upon me.

11 q And when you say the Rezko taint, what are you
12 referring to?

13 A well, the Governor was under federal
14 investigation, by this time Tony Rezko, a political
15 ally of the Governor's, a top fundraiser for the
16 Governor, who was in Governor's kitchen Cabinet, had
17 been indicted and I believe by now convicted of
18 crimes involving public corruption, and there was in
19 the media portrayed a close relationship between
20 Rezko and Governor Blagojevich.

21 q On Page 3, at line 5, you go on to say:
22 "And if, you know, if it's domestic agenda
23 is important, so HHS is, I'm not going to
24 make that a political pick. I mean,
25 meaning someone else's politics, it's

1 going to be my politics." what are you
2 saying there?

3 A I was basically saying don't be so offended if
4 President-Elect says no to your request for HHS, I
5 think it's not a reasonable request. The HHS
6 position is one of your most important domestic
7 policy appointments of your administration and
8 you're going to want your person there whose
9 loyalties are not divided, who is going to pursue
10 your agenda, meaning the President's agenda.

11 q And starting at line 10 Defendant Blagojevich
12 says:

13 "Uh-huh, I, I listen, I totally agree with
14 you. So beyond Rezko, it's beyond Rezko.
15 Yeah, but I know. On the other hand, that
16 might be your pick, but you pick could be
17 a political guy."

18 what did you understand him to be saying?

19 A That notwithstanding my opinion, the Governor
20 thought that the President could pick political
21 people to be in his Cabinet for political reasons.
22 I wasn't saying that it couldn't be a political
23 reason, I was just saying it would be my politics if
24 I were making the pick, not your politics.

25 q At line 27 you say:

1 "So, you know, you laid it all on the
2 battlefield. I gotta find some peace in
3 my life."

4 What are you saying there?

5 A Going back to the possible tone and content of a
6 discussion the Governor might be having with
7 Balanoff and basically trying to get the Governor to
8 frame the issue as a request to be considered for a
9 position in Washington perhaps not so direct as a
10 trade or one for the other.

11 Q On Page 4, at line 2 you say:

12 "Right, right. And, you know, it may be
13 that, it may be that I'm not able to get
14 anything more done here, so where, so
15 where I go from here to get things done
16 for people? I think I can be helpful to
17 Barack in advancing his agenda, after all
18 much of his domestic agenda is what we've
19 been doing here in Illinois and what he's
20 modelled after, so how can I best help him
21 do that? Those, and maybe put it that
22 way, if you wanna let them come back with
23 an offer, instead of starting with, you
24 know, let them feel like they're insulting
25 you, let them make the offer."

1 what were you saying there?

2 A I was saying rather than ask for a trade, appeal
3 to their sympathies, explain your situation, explain
4 that you're facing a deteriorating environment here,
5 and that perhaps they might come to you with an
6 offer, something hypothetically saying yeah, we were
7 considering you for some position or some post where
8 we think you might be of some assistance in the
9 president's domestic agenda; in other words, try
10 that before you go and ask one for the other.

11 q And you go on starting at line 25 to say:

12 "It's like when you're bidding on a House,
13 it's kinda like, how much you want for the
14 house. Tell me how much you'll give me.
15 You know, why low, you know, you might
16 shoot low. And if, and if they come in
17 low, they might insult you. So if they
18 come in and say, you know, we'll make you
19 assistant secretary of labor. Right?"
20 And over to page 5 at line two you say:
21 "Oh, come on, f' that, and then you kinda
22 shut down the negotiations. And then you
23 say, okay, fine, I'll just keep going
24 through with my process."

25 what were you saying there?

1 A If they say something or offer you something
2 you're not interested in, just move on.

3 Q And at line 8 Defendant Blagojevich says:
4 "I think I rather be, I think I rather be
5 senator."

6 What did you understand him to be saying
7 there?

8 A He plays his ace in the hole, appointing himself
9 as senator, that was his ultimate bargaining chip.

10 Q Line 14 you say:

11 "I'll just continue with my process, let
12 them come back with a higher bid. Oh, f',
13 he ignored our bid. I'm using the term
14 metaphorically."

15 What were you saying there?

16 A That if he's not satisfied with what they offer,
17 he should tell him so and then move on.

18 Q At line 18 Defendant Blagojevich says:

19 "Let's go back to what, okay. So you
20 reject the department of health and human
21 services, or any cabinet position like
22 that. An assistant you think, oh, forget
23 that. That's a, give me, let's go down
24 the pecking order. What would be good?
25 Down the pecking order, ah, ambassador to

1 the U.N."

2 what did you understand Defendant

3 Blagojevich to be saying there?

4 A He's suggesting other things he might ask for.

5 q And your response is:

6 "No way."

7 And he says:

8 "Right, keep going."

9 what did you understand he was saying

10 there?

11 A He agreed with me that there was no way that
12 would be entertained, so he told me to keep going,
13 meaning what other jobs might be of interest to me.

14 q "To me" meaning?

15 A The Governor.

16 q At line 29 you say:

17 "You know I wouldn't do any
18 ambassadorships. I mean, Obama would do
19 ambassadorships."

20 He says:

21 "He would?"

22 You say:

23 "Yeah, I think he'd do ambassadorships."

24 what were you saying?

25 A I was saying that if I were the Governor I

1 wouldn't ask for any ambassadorships. My
2 understanding was one of his goals and objectives
3 was to remain politically viable for a future run
4 for higher office perhaps and that becoming an
5 ambassador to some small country in some remote part
6 of the world would pretty much side-line him
7 forevermore in his political life.

8 Q At the top of Page 6, line 1 Defendant
9 Blagojevich says:

10 "Okay, I'm interested. How about India?
11 South Africa? How about India? India's
12 vital."

13 What did you understand him to be saying
14 there?

15 A He just begins to go through a list of countries
16 that he seems to be interested in back on the
17 ambassador topic.

18 Q Moving forward to Page 7, at the end of line 25
19 Defendant Blagojevich says:

20 "The commerce secretary is much more bigger
21 than the ambassador."

22 What did you understand him to be saying to
23 you there?

24 A That the commerce secretary Cabinet position was
25 significantly more important than ambassador to

1 India or high profile.

2 q At line 32 Defendant Blagojevich says:

3 "Right. So I'm the Governor of a 58
4 billion dollar corporation, why can't I be
5 ambassador to India?"

6 what did you understand him to be saying?

7 A He was arguing the point with me that he
8 possessed the requisite qualifications and
9 background to be considered a person with sufficient
10 background to serve as the ambassador of India and
11 be reasonably accepted as such.

12 q On page Page 8 at line 1 Defendant Blagojevich
13 says:

14 "What do you got? Because that Senate seat
15 doesn't mean that much to him?"

16 And at line 3 you say:

17 "Yeah, just India's just5 such a vital,
18 vital ..."

19 What were you saying there?

20 A I'm just saying that regardless of how important
21 the Senate seat is to him, I wouldn't appoint you if
22 I were him to be the ambassador of India. It's too
23 vital a trading partner, too high profile on the
24 world stage, and I just didn't think a Governor from
25 Illinois would be the right person for that.

1 q And at line 5 Defendant Blagojevich says:
2 "what's more important? Commerce secretary
3 or ambassador to India?"
4 what was your understanding of what he was
5 asking you?

6 A My opinion as to which was a more high-profile
7 post.

8 q And then at line 19 he says:
9 "what do you think? Unreachable or, you
10 know, not necessarily unreachable, but
11 hard to get? what category?"
12 what was your understanding as to what he
13 was saying there?

14 A well, at this point he's -- I'm just engaging in
15 a back and forth with him. At this point in the
16 conversation I considered it kind of digressing and
17 was more free-flowing in thoughts and I told him
18 that commerce secretary was unreachable and I
19 thought UN ambassador was unreachable.

20 q And, again, from your understanding of the
21 context of this conversation, was this all a
22 discussion in consideration of what Defendant
23 Blagojevich could ask for in exchange for making
24 Valerie Jarrett the senator?

25 A Yes.

1 MR. ADAM, JR.: Objection; leading.

2 THE COURT: Sustained.

3 BY MS. HAMILTON:

4 Q Based upon the context of the call, what was your
5 understanding as to why Defendant Blagojevich was
6 engaging you in this discussion regarding the
7 commerce secretary and the ambassador to India?

8 A He was considering what else he might ask for if
9 the request for the cabinet appointment to HHS was
10 rejected or otherwise declined.

11 MS. HAMILTON: Your Honor, I don't have any
12 other questions on that section of the call.

13 THE COURT: 9:30 tomorrow morning.

14 THE MARSHAL: All rise.

15 (The following proceedings were had out of
16 the presence of the jury in open court:)

17 THE COURT: Anything else?

18 Be seated with the courtroom.

19 MR. SCHAR: The release of the exhibits with
20 the exception of the last call, obviously it has not
21 been fully played, is there any objection to
22 releasing the other exhibits, including the calls
23 that have been played?

24 THE COURT: I believe that there is a
25 standing objection to this and unless there's a

1 somewhat specific thing with respect to this one,
2 I'm going to order the release subject to the
3 standing objection; okay?

4 MR. GOLDSTEIN: That's fine, Your Honor.

5 THE COURT: Thanks.

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7 (Adjournment taken from 4:59 o'clock p.m.
8 to 9:30 o'clock a.m. on June 23, 2010.)
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:59PM

Harris - direct by Hamilton

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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT

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FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED

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MATTER

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/s/Blanca I. Lara

date

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Blanca I. Lara

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